

Implementing Special Education: Students With Special Needs

Introduction. The number of children and adolescents with special health care needs in Virginia schools has increased over the last 20 years due to legislation requiring education be provided to all children in the least restrictive environment, changing social attitudes that promote inclusion of children with special needs in schools and other community groups, improvements in medical technology, and advances in educational research of special needs populations. Determination of a child's need and eligibility for services at the earliest possible time leads to better educational outcomes for the child. School nurses and other school health personnel are involved in identifying and serving students with special needs.

Historical Perspective: Key Federal Legislation

Listed below are summaries of some key special education federal laws and acronyms of special education.

Early Education for Handicapped Children Program of 1970. In 1970, Congress passed the Early Education for Handicapped Children Program, providing seed money for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for handicapped children. This was the federal government's first major effort in early intervention.

Rehabilitation Act of 1973 (Public Law 93-112). The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment, and in the employment practices of federal contractors. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in Title I of the Americans with Disabilities Act of 1990.

- ◆ **Section 504.** Section 504 of the 1973 Rehabilitation Act is the basic civil rights legislation prohibiting discrimination against persons with "handicapping conditions" in programs that receive federal funds. This includes public schools.
- ◆ **Handicapping Condition.** The definition of "handicapping condition" in Section 504 is: a handicapped student is one who has a physical or mental impairment that substantially limits one or more life activities (such as working, eating, dressing, breathing). The Office of Civil Rights, which oversees enforcement of the statute, has determined that this may include drug and alcohol addiction, attention deficit disorder, AIDS, hospitalization due to depression, and other conditions not typically

qualifying under special education. Federal special education funds cannot be used to comply with 504.⁸³

Education Amendments of 1974 (Public Law 93-380). In 1974, to assure appropriate education opportunities for children with special needs, Congress passed the Education Amendments of 1974, which guarantees due process and provision of education in the least restrictive environment.

Education for All Handicapped Children Act of 1975 (Public Law 94-142). In 1975, Congress passed a law called the Education for All Handicapped Children Act (EHA). This law established legal standards and requirements for the education provided to children with disabilities. This law required all states to provide a “Free, appropriate public education” to school-age children with handicaps in the “least restrictive environment.”

- ◆ **Section 619.** Section 619 of the EHA provided incentives to states to serve handicapped children ages 3 to 5.
- ◆ **Handicapped Children.** Under this law, “handicapped children” were defined as those who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, or who have specific learning disabilities, and who by reason of these handicaps require special education and related services.
- ◆ **Related Services.** Under this law, “related services,” which included school health-related services, were among those services that must be provided to sustain these children’s attendance. These services are described in P. L. 94-142 and include, among others, school health services; physical, occupational, and language therapy; modification of classroom schedules; and if necessary, actual physical alterations of the school.
- ◆ **Least Restrictive Environment.** To the extent possible (given the nature and severity of the child’s handicap), the child should be educated in the regular classroom with peers who are not handicapped.

Note: The EHA was to be re-enacted every 4 years, resulting in numerous changes in the Act over the intervening two decades.

Public Law 98-109 of 1983. In 1983, believing that it was time to encourage states to expand services to preschool children, infants, and toddlers with handicaps, Congress passed P.L. 98-109. That legislation set aside money for planning, development, and implementation grants dealing with the preschool populations—allowing states to apply

⁸³ Adams, Richard M. (1995). *School Nurse’s Survival Guide: Ready-to-Use Tips, Techniques & Materials for the School Health Professional* (p. 277). Englewood Cliffs, N.J.: Prentice Hall.

for grants to provide services to disabled children age birth through 3 years. In the first quarter of 1985, 20 states received such grants.

Education of the Handicapped Act Amendments of 1986 (Public Law 99-457). In 1986, Congress enacted P. L. 99-457, the Education of the Handicapped Act Amendments of 1986. This legislation amended the Education of All Handicapped Children Act (EHA) to, among other things, replace the preschool grants program (Part B, Section 619) and create a new early intervention program for infants and toddlers (Part H). The least restrictive environment concept was continued.

- ◆ **Part B, Section 619.** Replaced the preschool grants program authorized by P.L. 94-142 with a new program (Part B, Section 619) for children with disabilities, ages 3 through 5.
- ◆ **Children with Disabilities.** Under this law, the term “handicapped children” was replaced with “children with disabilities.” This term means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, severely emotionally disturbed, orthopedically impaired, or other health impaired, or children with specific learning disabilities, who by reason thereof require special education and related services. (20 U.S.C. § 1401 [a].)
- ◆ **Infant and Toddlers Program.** Created a new state grant program (Part H) to encourage states to plan, develop, and implement early intervention services to infants and toddlers with developmental delay and their families. States participating in the Part H program were permitted five years (1988-1993) to develop programs to provide appropriate services to eligible children and their families.
- ◆ **Infants and Toddlers with Disabilities.** Under this law, the term “infants and toddlers with disabilities” is defined as children from birth through age 2 who required early intervention services because they (a) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, language and speech development, psychosocial development, or self-help skills, or (b) have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. (20 U.S.C. § 1472.)

Individuals with Disabilities Education Act of 1990 (Public Law 101-476). In October 1990, Congress passed P.L. 101-476, which reauthorized the Education for All Handicapped Children Act (EHA), Parts C through G, through fiscal year 1994, changed the name to the Individuals with Disabilities Education Act (IDEA), and made minor changes to Parts B and H. There were some changes in the definition categories for special education and related services, including new categories of traumatic brain injury, developmental delay, and autism. Also, additional services, such as transition and assistive technology, were added.

Americans with Disabilities Act of 1990. The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990. The ADA prohibits discrimination on the basis of

disability in employment, programs and services provided by state and local governments, goods and services provided by private companies, and in commercial facilities. The ADA protects every person who either has, used to have, or is treated as having a physical or mental disability that substantially limits one or more major life activity. Individuals who have serious contagious and non-contagious diseases—such as HIV/AIDS, cancer, epilepsy or tuberculosis—are also covered under the auspices of ADA. The ADA extends the coverage of Section 504 of the Rehabilitation Act of 1973.

- ◆ **Public Schools.** The ADA accords persons with disabilities meaningful access to programs and facilities of public schools, as well as most business. It requires employer to make “reasonable accommodation” for disabled persons to enable them to perform the job.⁸⁴

Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17). The Individuals with Disabilities Education Act Amendments of 1997 (IDEA 97) were signed into law on June 4, 1997. (Final implementing regulations released March 12, 1999.) The new law consists of four parts: Part A—General Provisions, Part B—Assistance for Education of All Children with Disabilities, Part C—Infants and Toddlers with Disabilities (formerly Part H), and Part D—National Activities to Improve Education of Children With Disabilities. An overview of implementing IDEA 1997 in Virginia is provided in the next subsection.

- ◆ **Children with Disabilities.** Under this law, the term “children with disabilities” is defined as those children evaluated in accordance with the federal special education regulations as having mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities, and who, because of those impairments, need special education and related services.
- ◆ **Related Services.** Under this law, “related services” are defined as follows: transportation, and such developmental, corrective, and other supportive services—including speech language pathology and audiology, psychological services, physical and occupational therapy, recreation (including therapeutic recreation and social work services), and medical and counseling services (including rehabilitation counseling), except that such medical services shall be for diagnostic and evaluation purposes only—that may be required to assist a child with a disability to benefit from special education. (IDEA, 20 U.S.C. 1401 [17].) The term also includes school health services, social work services in the schools, and parent counseling and training. (34 C.F.R. 300.13[a].)

⁸⁴ Adams, Richard M. (1995). *School Nurse’s Survival Guide: Ready-to-Use Tips, Techniques & Materials for the School Health Professional* (p. 271). Englewood Cliffs, N.J.: Prentice Hall.

Subsections

The following subsections provide guidance on implementing key legislation and regulations.

- ◆ Implementing IDEA
- ◆ Part C (Formerly Part H)
- ◆ Implementing Section 504 of the Rehabilitation Act
- ◆ Special Education Assessment

Note: School nurses, teachers, and other staff members are encouraged to refer to the following manual for guidance on caring for students with special health care needs in the school setting: Keen, T. (Ed.) with Ford, N., Henry, J., and Cox A. (Consulting Eds.). (1996). *Guidelines for Specialized Health Care Procedures*. Richmond, Va.: Virginia Department of Health.

Implementing IDEA

Authorization

Individuals with Disabilities Education Act (IDEA). The IDEA (formerly called Public Law 94-142 or the Education for All Handicapped Children Act of 1975) requires public schools to make available to all eligible children with disabilities a free appropriate public education in the least restrictive environment, appropriate to their individual needs. The Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17) were signed into law on June 4, 1997.

Note. The Virginia regulations were under revision to comply with IDEA regulations at the time this manual was being developed.

Code of Virginia Section 22.1-213, Definitions (special education program for children with disabilities). The *Code of Virginia*, § 22.1-213 defines “children with disabilities” as those persons:

1. *ho are aged two to twenty-one, inclusive [i.e., ages 2 through 21], having reached the age of two by the date specified in § 22.1-254.* *W*
2. *ho are mentally retarded, physically disabled, seriously emotionally disturbed, speech impaired, hearing impaired, visually impaired, multiple disabled, other health impaired including autistic or who have a specific learning disability or who are otherwise disabled as defined by the Board of Education.* *W*
3. *ho because of such impairments need special education.* *W*

Excerpt: See Appendix A for *Code of Virginia* § 22.1-213.

Code of Virginia § 22.1-214, Board to Prepare Special Education Program for Children With Disabilities. The *Code of Virginia* requires the Board of Education to ensure that each school division in Virginia has a special education program to educate and train children with disabilities. Virginia requires that all children with disabilities between the ages of 2 and 21, inclusive (i.e., ages 2 through 21), be identified, evaluated, and have made available to them a free and appropriate public education (FAPE). School divisions are mandated to comply with these regulations under Article VIII, Section I of the Constitution of Virginia, Title 22.1 of the *Code of Virginia*, and the federal Individuals with Disabilities Education Act (20 U.S.C. Section 1400-1485).

Excerpt: See Appendix A for *Code of Virginia* § 22.1-214.

Regulations. The Board of Education has established regulations governing the implementation of special education and related services for students with disabilities in Virginia. After the federal regulations are finalized, the Virginia Board of Education will update its special education regulations to comply with those at the federal level. Until this is completed, information regarding special education regulations in Virginia is taken from: Virginia Department of Education (Effective January 1994). *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*. Richmond, Va.: Author.

Definitions. Key general definitions from *Regulations Governing Special Education Programs in Handicapped Children and Youth in Virginia*, Virginia Department of Education, effective January 1994, are included in the following chart.

General Definitions of Terms Associated With Special Education

Term	Definition
Children with Disabilities	Those children evaluated as having autism, deaf-blindness, a developmental delay, a hearing impairment (which may include deafness), mental retardation, multiple disabilities, an orthopedic impairment, other health impairment, a serious emotional disturbance, a severe and profound disability, a specific learning disability, a speech or language impairment, a traumatic brain injury, or a visual impairment (which may include blindness), who, because of these impairments, need special education and related services.
Age of Eligibility	All eligible children with disabilities who have not graduated from a secondary school or completed a program approved by the Board of Education whose second birthday falls on or before September 30, and who have not reached their twenty-second birthday on or before September 30.
Free, Appropriate Public Education (FAPE)	Special education and related services that: <ol style="list-style-type: none"> 1. Are provided at public expense, under public supervision and without charge. 2. Meet the standards of the Board of Education. 3. Include preschool, elementary school, middle school, or secondary schools, and/or vocation education. 4. Are provided in conformity with an individualized education program. FAPE is a statutory term, which requires special education and related services to be provided in accordance with an individualized education program (IEP).
Individualized Education Program (IEP)	Written statement for each child with a disability, developed in any meeting by a representative of the local education agencies (LEA) who shall be qualified to provide, or supervise the provision of specially designated instruction to meet the unique needs of children with disabilities, the teacher, the parents of such child, and whenever appropriate, such child.

Note: Categorical definitions of disability as defined by federal and state guidelines, and definitions of services and supports that are contained in the *Regulations Governing*

Special Education Programs in Handicapped Children and Youth in Virginia, Virginia Department of Education, effective January 1994, are provided in the Appendix A.

Process and Procedures for Implementing IDEA

Note. The following information reflects the IDEA Amendments of 1997 and aspects of the Virginia Special Education Regulations (1994).⁸⁵

Child Find. Public awareness responsibilities of local school divisions include:

- ◆ Conducting a public awareness campaign annually that involves parents and community members in child find and community awareness campaign.
- ◆ Maintaining an active and continuing child find program to locate children birth through 21, in need of special education.

Screening. Each local school division is responsible for establishing and maintaining screening. Screening is to include the following within 60 days of initial enrollment: (Please refer to the section on “Population-Based Screening” within this chapter, for specific screening information.)

1. Speech, voice, and language.
2. Vision and hearing.
3. Fine and gross motor function (through grade three).

Child Study. Formal committee established in each school to review records and performance of students referred through a screening process or by another source and to decide what course of action is indicated. The committee may be termed “Instructional Support Team,” “Teacher Assistance Team,” or other similar terminology. The school nurse may be a part of this committee.

Evaluation. Procedures used to determine whether a child has a disability under IDEA. Each local school division shall have established policies and procedures related to the evaluation of referred students. Policies and procedures include parental consent, confidentiality, written notification, nondiscriminatory testing, qualified personnel, and notification of parental rights.

⁸⁵ Virginia Department of Education (Effective January 1994). *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*. Richmond, Va.: Author.

A team of individuals, including the parents, determines what will be assessed. These may include health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. Virginia law requires hearing screening for all students evaluated for special education. This is typically accomplished through the assessment of components that are contained in the following chart.

Assessment Components of Suspected Disability

Component	Description
Educational	Written report describing current educational performance and identifying instructional strengths and weaknesses in academic skills and language performance.
Medical	Written report from a licensed physician indicating general medical history and any medical/health problems that may impede learning.
Sociocultural	Written report from a qualified visiting teacher or school social worker that describes family history, structure, and dynamics; developmental and health history; and social/adaptive behavior in the home, school, and community. The information is obtained through interviews with parents or primary caretakers in addition to use of other social appraisal methods.
Psychological	Written report from a qualified psychologist based on the use of a battery of appropriate instruments that shall include individual intelligence test(s) and psycho-educational tests.
Developmental	Written report of assessment of how the child functions in the major areas of development (such as cognition, motor, social/adaptive behavior, perceptions, and communications), where required in the regulations for assessing the specified handicapping conditions.
Other	Where indicated (e.g., audiological, speech-language). All assessments must be provided in written format and must be conducted by qualified personnel. To be qualified, professionals must meet any applicable licensing requirements.

Eligibility. A committee made up of persons representing the disciplines providing the assessments and the special educator administrator or designee shall determine if the student has a disability under IDEA and if the student requires special education and related services. The school nurse may be a part of this committee. A written summary of its deliberations and findings is prepared, and if the child is found to be eligible, the summary is forwarded to the IEP committee.

Individualized Education Program (IEP). A written program for each child with a disability that is developed by a committee consisting of a representative of the local school division who is qualified to provide or supervise the provision of special education, the child's teacher (general and special education), the child's parents, the

child (if appropriate), and other individuals at the discretion of the parents (may include an advocate) or local school division (may include a member of the evaluation team or related service provider). The school nurse may be a part of the committee and will perform an important role in the development of goals, objectives, and services for students with special health needs.

The written plan must include the following components:

- ◆ A statement of the child's present level of educational performance.
- ◆ A statement of annual goals and objectives.
- ◆ A statement of specific special education and related services to be provided.
- ◆ Objective criteria and evaluation procedures and schedules.
- ◆ A statement of the needed transition services, if age 14 or older.
- ◆ Discussion of communication, assistive technology, Braille, limited English proficiency, and behavior needs as appropriate.
- ◆ A statement of provision regarding the Virginia literacy assessment program.

The parent shall be given a copy of the IEP and information regarding due process procedural safeguards that stipulate their rights as parents of the student with a disability. The IEP should be revised at least annually.

Instruction. Instruction is provided according to the terms of the IEP.

Placement. Educational placement is based on the child's IEP, is determined at least annually, and occurs as close as possible to the child's home. Unless indicated otherwise by the IEP, the child is educated in the school that the child would attend if nondisabled. Alternative placements follow a continuum, including integrated service delivery with general education, special classes, special schools, home instruction, instruction in hospitals or institutions, or residential placement.

Annual Review. Each local school division is responsible to initiate and conduct meetings periodically to review each child's IEP and, where appropriate, revise its provisions. A meeting must be held for this purpose at least once a year. A reevaluation is conducted at least every three years.

Implementing Part C of IDEA (Formerly Part H)

Authorization

Individuals with Disabilities Education Act (IDEA). The IDEA was amended in 1986 with legislation designed to help states establish a statewide, comprehensive system of early intervention services for infants and young children with special needs and their families. Part H of this legislation, P.L. 99-457, mandated services for children beginning at age three with the option to provide services for children who were developmentally delayed or at risk for developmental delays from birth through the second year of life. This bill established a national policy on early intervention that provided assistance to states to build systems of service delivery and recognized the unique role of families in the development of their young child with disabilities. Virginia opted to participate in the optional early intervention program for infants and toddlers from birth through age 2. Virginia had required special education for children, beginning at age 2, since prior to the first passage of Federal legislation in 1975. The IDEA Amendment in 1997, reauthorized the infant and toddler program and renamed the program in Part C.

Implementation of Part C

Goals. The goals of the Part C program include:

1. To develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with, or at-risk for, disabilities, and their families.
2. To facilitate the coordination of payment for early intervention services from federal, state, local, and private sources.
3. To enhance states' capacity to provide quality early intervention services and expand and improve existing services.

Early Intervention. Early intervention is a service that can begin at birth and is designed to facilitate the process of development as well as enhance the family's capacity to meet the child's special needs. These services are tailored to meet the unique needs of children with developmental delays and their families and include:

- ◆ Service coordination.
- ◆ Family training, counseling, home visits.
- ◆ Health services necessary to enable the infant or toddler to benefit from the other early intervention services,

- ◆ Occupational therapy.
- ◆ Physical therapy.
- ◆ Psychological services.
- ◆ Social work services.
- ◆ Speech/language pathology services.
- ◆ Audiology services.
- ◆ Other support services.

State Agency Authority

The Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) has been designated as Virginia's lead agency for Part C. A state-level interagency council (Virginia Interagency Coordinating Council - VICC) meets to advise and assist the lead agency in performing its responsibilities. VICC members are appointed by the governor and include a representative from the major state agencies that are engaged in providing services to young children with disabilities, parent representatives, and community members. There are 40 Local Interagency Coordinating Councils (LICCs) across the Commonwealth. These LICCs typically are composed of representatives from the local school division, community services board, health department, social services department, parents, and direct care providers.

Implementing Section 504 of the Rehabilitation Act

Definitions

Section 504. Section 504 of the Rehabilitation Act of 1973 (29.U.S.C. 701 et. Seq.) prohibits discrimination on the basis of handicap in any program or activity receiving federal financial assistance.

Qualified Person. A qualified person under Section 504 covers a broader population than the definition of a child with a disability under IDEA. A qualified handicapped individual under Section 504 is any person who meets one or more of the following criteria:

- ◆ Has a physical or mental impairment that substantially limits one or more major life activities.
- ◆ Has a record of such an impairment.
- ◆ Is regarded as having such an impairment.

Physical or Mental Impairment. Physical or mental impairment can be:

- ◆ Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems: neurological, musculoskeletal, sense organs, respiratory, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.
- ◆ Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning abilities.

Major Life Activities. Major life activities means such functions as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Record of Impairment. Record of impairment means that the individual has a history of or has been classified as having a mental or physical impairment that substantially limits one or more major life activities.

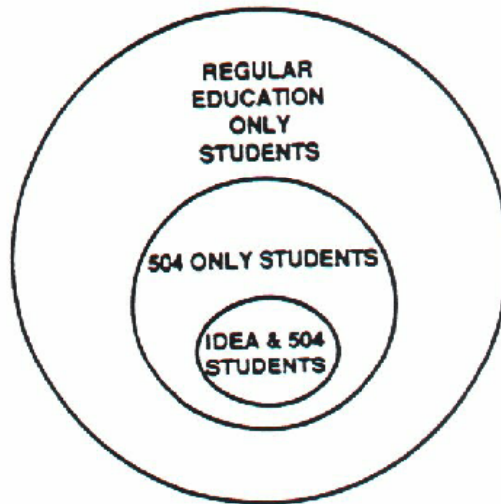
Regarded as Having an Impairment. Regarded as having an impairment means:

- ◆ Has a physical or mental impairment that does not substantially limit major life activities but is treated as constituting such limitation.
- ◆ Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.

- ◆ Has none of the impairments defined in section one but is treated by a recipient as having such an impairment.

Some students with disabilities may not qualify for special education and services under IDEA but may qualify for services under Section 504. Figure 3 compares eligibility under IDEA and Section 504.

Figure 3. IDEA and 504 Eligible Student Population Comparisons ⁸⁶



IDEA/504 STUDENTS

Students are qualified under one or more of 13 IDEA disabling condition categories. Specially designed individualized education programs (IEP) are planned for each student by IEP Teams.

SECTION 504 STUDENTS ONLY

Due to substantial mental or physical impairments that limit one or more of the student’s major life activities, special accommodations to the student’s program are required. A 504 accommodation is designed for each student according to individual need.

Examples of potential 504 handicapping conditions not typically covered under IDEA are:

- ◆ Communicable diseases—HIV, Tuberculosis.
- ◆ Medical conditions— asthma, allergies, diabetes, heart disease.
- ◆ Temporary medical conditions due to illness or accident.
- ◆ Attention Deficit Disorders (ADD, ADHD).
- ◆ Behavioral difficulties.
- ◆ Drug/alcohol addiction.
- ◆ Other conditions.

⁸⁶ Adapted from *Student Access, A Resource Guide for Educators: Section 504 of the Rehabilitation Act of 1973*. Council of Administrators of Special Education, Inc.

Similarities and Differences Between Section 504 and IDEA

All students who are disabled under the IDEA are also considered to be handicapped and, therefore, protected under Section 504. Some students who are not eligible for IDEA services are deemed handicapped under Section 504. For the purpose of clarification in this manual, the term “handicapped” refers to students who are protected under the regulations of Section 504 only; the term “disabled” is reserved for students who are eligible for service under IDEA.

The IDEA defines as eligible only students who have certain specified types of disabilities and who, because of one of those conditions, need special education. Section 504, on the other hand, protects all handicapped students, defined as those having any physical or mental impairment that substantially limits one or more major life activities. Section 504 covers all students who meet this definition, even if they do not meet the IDEA criteria for having a disability and requiring special education.

Application of this definition would pertain to a student who has juvenile arthritis but who is not eligible for special education and related services through IDEA. Such a student has a health impairment and is handicapped for purposes of Section 504, if their condition substantially limits their ability to function at school. Accommodations and related services and aids must be provided for the student to benefit from education. Thus, the school division must evaluate the student and, if qualified under Section 504, must develop and implement a plan for the delivery of all needed services.

The following chart provides a comparison between components of IDEA and Section 504.⁸⁷

IDEA and Section 504 Comparison

Component	IDEA	Section 504
General Purpose	Is a federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for disabled children.	Is a broad civil rights law that protects the rights of individuals with handicaps in programs and activities which receive federal financial assistance from the U.S. Department of Education.

⁸⁷ Adapted from *Student Access, A Resource Guide for Educators: Section 504 of the Rehabilitation Act of 1973*. Council of Administrators of Special Education, Inc.

IDEA and Section 504 Comparison

Component	IDEA	Section 504
Who is Protected?	Identifies all students (3 through 21 years of age) who fall within one or more categories of qualifying conditions.	Identifies all school-age children as handicapped who meet the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment that substantially limits a major life activity, or (3) is regarded as handicapped by others. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. The handicapping condition need only substantially limit one major life activity in order for the student to be eligible.
Responsibility to Provide a Free and Appropriate Public Education (FAPE)	Both laws require the provision of a free appropriate public education to eligible students covered under them including individually designed instruction. The Individualized Education Program (IEP) of IDEA will suffice for Section 504 written plan.	Does not require a written IEP document but does require a plan. It is recommended that the school division document that a group of persons knowledgeable about the student convened and specified the agreed upon services.
	“Appropriate education” means a program designed to provide educational benefit. Related services are provided if required for the student to benefit from specially designed instruction.	“Appropriate” means an education comparable to the education provided to non-handicapped students, requiring that reasonable accommodations be made. Related services, independent of any special education services as defined under IDEA, may be the reasonable accommodation.
Special Education vs. Regular Education	A student is only eligible to receive IDEA services if the multidisciplinary team determines that the student is disabled under one or more of the specific qualifying conditions and requires specially designed instruction to benefit from education.	A student is eligible so long as he/she meets the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment that substantially limits a major life activity, or (3) is regarded as handicapped by others. It is not required that the handicap adversely affect educational performance or that the student need special education in order to be protected.

IDEA and Section 504 Comparison

Component	IDEA	Section 504
Funding	Provides additional funding for eligible students.	Does not provide additional funds. IDEA funds may not be used to serve children found eligible only under Section 504.
Accessibility	Requires that modifications must be made if necessary to provide access to a free appropriate education.	Has regulations regarding building and program accessibility, requiring that reasonable accommodations be made.
Procedural Safeguards	Both require notice to the parent or guardian with respect to identification, evaluation, and/or placement. IDEA procedures will suffice for Section 504 implementation.	
	Requires written notice.	Does not require written notice.
	Delineates required components of written notice.	Written notice not required but indicated by good professional practice.
	Requires written notice prior to any change in placement.	Requires notice only before a “significant change” in placement.
Evaluations	A full comprehensive evaluation is required, assessing all areas related to the suspected disability. The child is evaluated by a multi-disciplinary team or group.	Evaluation draws on information from a variety of sources in the area of concern; decisions made by a group knowledgeable about the student, evaluation data, and placement options.
	Requires informed consent before an initial evaluation is conducted.	Does not require consent, only notice. However, good professional practice indicates informed consent.
	Requires reevaluations to be conducted at least every 3 years.	Requires periodic reevaluations. IDEA schedule for reevaluation will suffice.
	A reevaluation is not required before a significant change in placement. However, a review of current evaluation data, including progress monitoring, is strongly recommended.	Reevaluation is required before a significant change in placement.
	Provides for independent educational evaluation at school division expense if parent disagrees with evaluation obtained by school and hearing officer concurs.	No provision for independent evaluations at school division expense. Divisions should consider any such evaluations presented.

IDEA and Section 504 Comparison

Component	IDEA	Section 504
Placement Procedures	When interpreting evaluation data and making placement decisions, both laws require school divisions to:	
	<p>A. Draw upon information from a variety of sources.</p> <p>B. Assure that all information is documented and considered.</p> <p>C. Ensure that the eligibility decision is made by a group of persons, including those who are knowledgeable about the child, the meaning of the evaluation data, and placement options.</p> <p>D. Ensure that the student is educated with the student’s non-handicapped peers to the maximum extent appropriate (least restrictive environment).</p>	
	An IEP review meeting is required before any change in placement.	A meeting is not required for any change in placement.
Grievance Procedure	Does not require a grievance procedure nor a compliance officer.	Requires districts with more than 15 employees to (1) designate an employee to be responsible for assuring district compliance with Section 504 and (2) provide a grievance procedure for parents, students, and employees.
Due Process	Both statutes require school divisions to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of a student.	
	Delineates specific requirements.	Requires that the parent have an opportunity to participate and be represented by counsel; other details are left to the discretion of the local school district. Policy statements should clarify specific details.
Exhaustion	Requires the parent or guardian to pursue administrative hearing before seeking redress in the courts.	Administrative hearing not required prior to Office of Civil Rights involvement or court action; compensatory damages possible.
Enforcement	Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the State Department of Education and the Office of Special Education Programs.	Enforced by the U.S. Office of Civil Rights.
	The State Department of Education resolves complaints.	State Department of Education has no monitoring, complaint resolution, or funding involvement.

Process for Implementation of Section 504 Protections/Services

Referral. The first step of the process is referral. Students falling under the auspices of Section 504 generally are those who meet one or more of the following descriptions:

- ◆ Are experiencing academic difficulty (below grade level performance), and it is suspected that the medical condition is or will adversely affect classroom functioning.
- ◆ Need medically-related adaptations to perform in a general education classroom placement.
- ◆ Need or may need homebound instruction on an intermittent basis due to medical condition.

The building principal is generally the central figure in any process involving special services for students assigned to the school. It is the responsibility of all staff (e.g., secretaries, teachers, visiting teachers, health professionals, psychologists, and other support personnel) to immediately make the principal aware of any student who may need 504 services. Parents may also refer their children or request services.

Every effort should be made to review health information on all students when they enroll. The school nurse may assist the 504 coordinator of the local school division by notifying the principal of students with disabilities who are not receiving special education.

Screening. The school division may elect to have either a centralized committee or a school-based building screening committee. The committee may consist of principal/designee, student's general education teacher(s), specialist(s), school nurse, licensed nurse practitioner, public health nurse, parents and/or referring source, and any other persons deemed necessary.

As a member of this committee, the school nurse may assist in determining whether a complete comprehensive assessment and/or any single or multiple assessment is necessary in order to make a determination of the child's needs. The school nurse may recommend that the screening committee request additional information, reports or records, and classroom observation or intervention.

The 504 evaluation may consist of the following written components:

- ◆ Medical.
- ◆ Psychological.
- ◆ Educational.
- ◆ Socio-cultural.

- ◆ Others as appropriate to the student's suspected disability; for example, an audiological may be requested to determine a student's eligibility for hearing impairment services.

Evaluation. Procedures should be developed for this evaluation that ensure the following:

- ◆ Evaluation materials are appropriate for intended use.
- ◆ Evaluators are properly trained.
- ◆ Evaluation materials used should test relevant areas of educational need and not merely IQ.
- ◆ Selection and administration of tests should accommodate sensory, manual, and speaking deficiencies.

Eligibility. A committee to determine 504 eligibility may consist of the following individuals: director of special services, school psychologist, school social worker, school nurse, educational diagnostician, representative from the referring school, student, family member, and individuals representing the assessment components as required. Each school division will determine the membership based on local needs. The school nurse may be a part of this committee when necessary.

The purpose of the eligibility meeting is to determine whether or not there is a handicapping condition.

Section 504 Evaluation Committee. The Section 504 Evaluation Committee is responsible for determining the following:

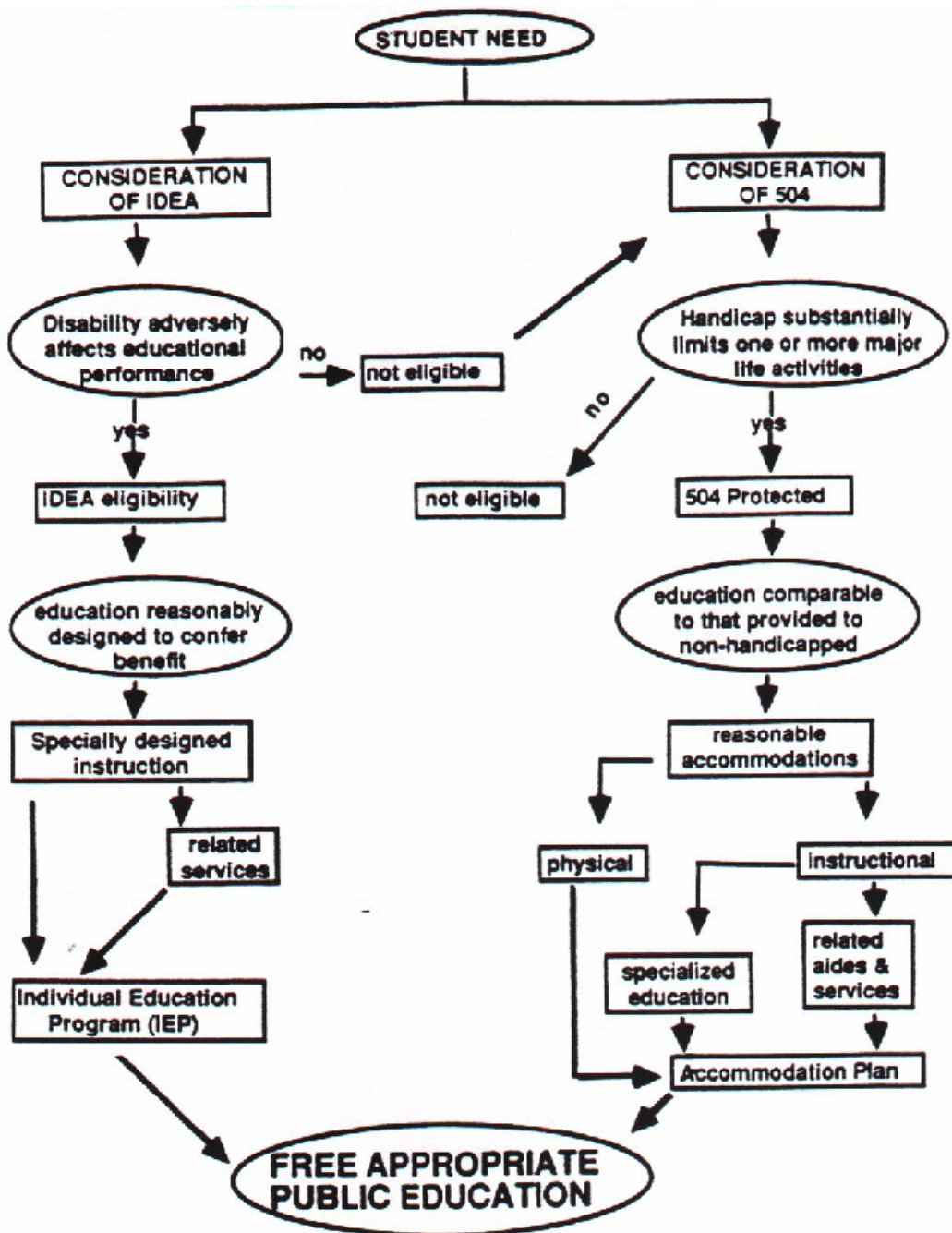
- ◆ Whether the student is handicapped.
- ◆ The type of handicap.
- ◆ The effect of any handicap on the student in the school setting.

The 504 Plan. A Section 504 Educational Plan must be developed to incorporate the services that the student needs in the educational setting. If there are educational implications, accommodations must be made.

Development of the plan should be made within 30 days of identification. The school nurse may assist in developing the components of the 504 Educational Plan that deal with health issues.

The following figure summarizes the similarities and differences between the IDEA and Section 504 processes and procedures. Note: This chart was developed prior to the adoption of the 1997 Amendments to IDEA.

Figure 4. IDEA Flow Chart for Process for Implementation of Section 504 Protections/Services⁸⁸



⁸⁸ *Student Access, A Resource Guide for Educators: Section 504 of the Rehabilitation Act of 1973.* Council of Administrators of Special Education, Inc.

Special Education Health Assessment

Overview

An important component of the special education assessment is a complete medical history and physical examination. The school nurse may play an integral part by taking the medical history. A complete physical examination should be performed by a licensed physician or licensed nurse practitioner (directly supervised by a physician).

Health History ⁸⁹

School Nurse's Role in Medical/Health History. Obtaining a complete medical history is the most important aspect of a health examination. For younger children, the parents are the primary informants. If the school nurse completes the health history, the salient facts should be reviewed by the examiner prior to medical assessment. The following guidelines detail information necessary for a complete health history. However, a child not accompanied by a parent is unlikely to be able to provide answers to some of the questions posed by the school nurse. The school nurse should use professional judgment to determine which questions are appropriate to ask of a child and which questions will need to be deferred for a later interview with a parent.

Setting. The school nurse responsible for completing a health history must be cognizant of the importance of this interview in establishing communication and rapport with the student. In addition, this first step is key in setting up a successful physical assessment. The interview should be conducted in a room that is private, bright, and nonthreatening. The school nurse should define the scope of the interview, assure complete confidentiality, and tailor communication strategies to the age and developmental level of the student being interviewed. If a parent is present, the school nurse must inform the parent of the relevance of the information they are about to give as well as who has access to the information the parent and student share with the school nurse.

The school nurse may already have access to identifying data about a particular student (e.g., name, nickname, parents' names, home phone, and so forth). If the school nurse does not have this information, it should be elicited in the interview if the student is able to provide it. If not, the school nurse should follow up with a parent after the interview.

Health History Categories. The categories the school nurse should address when taking a health history include:

- ◆ Past medical history.

⁸⁹ Engel, J. (1997). *Pocket Guide to Pediatric Assessment, Third Edition*. St. Louis, Mo.: Mosby.

- ◆ Growth and development.
- ◆ Family history (when possible).
- ◆ Systems review.

Past Medical History. Past medical history includes:

- ◆ General state of health, including appetite, recent weight losses or gains, fatigue, and stresses.
- ◆ Birth history (if a parent is present). Birth history is especially important if the child is younger than 2 years of age or is experiencing developmental or neurological problems. Questions should relate to significant prenatal history, birth complications, and neonatal history (e.g., respiratory distress, cyanosis, jaundice, seizures, poor feeding, patterns of sleeping).
- ◆ Previous illnesses, operations, or injuries, including:
 1. Dates of hospitalizations.
 2. Reasons for hospitalizations.
 3. Accidents, specifically head injuries. (It is important to inquire about a history of fainting spells.)
- ◆ Chronic illnesses, such as asthma, seizure disorders, cardiac disease, and diabetes.
- ◆ Current medications, including prescription and non-prescription drugs, dose, frequency, and duration of use.
- ◆ Allergies, including the agent (e.g., environment, medication).
- ◆ Immunization status.
- ◆ Developmental disabilities or other disabilities.

Growth and Development.

- ◆ Physical development, including height and weight (when indicated, approximate height and weight at 1, 2, 5, and 10 years of age and tooth eruption/loss should be obtained).
- ◆ Developmental history, including developmental milestones (e.g., ages at which child rolled over, sat alone, crawled, walked, spoke first words, spoke first sentences, and dressed without help). Note: For children already participating in school, academic achievement may be included in this section.

- ◆ Social history, including issues relating to:
 1. Temperament (e.g., congeniality, aggressiveness, withdrawal): Children and adolescents should be asked if they ever feel sad or down; if yes, they should be asked if they have ever thought of killing themselves.
 2. Attention span.
 3. Adjustment to school, including school absences and relationship to peers (in and out of school).
 4. Tobacco, alcohol, and drug use.
 5. Relationships with family members.
 6. Toileting habits (where appropriate).

Review of Systems. Review of systems includes inquiry as to the student's or parent's understanding of the child's general health status. Areas to be addressed include:

1. General health status
2. Skin
3. Head and neck
4. Ears
5. Eyes
6. Face and nose
7. Thorax and lungs
8. Cardiovascular
9. Abdominal
10. Genitourinary/reproductive
11. Musculoskeletal
12. Neurologic

Physical Examination⁹⁰

A complete physical examination should be performed by a licensed physician or licensed nurse practitioner (directly supervised by a physician). The health care provider should address the following areas during the physical examination:

- ◆ General appearance, demeanor, and cooperation.
- ◆ Pulse, respiration, and blood pressure.
- ◆ Height, weight, and nutritional status.
- ◆ Posture, gait, flexibility (assessment for scoliosis at appropriate age).
- ◆ Eyes and vision.
- ◆ Nose, mouth, teeth, throat, and neck.
- ◆ Chest and lungs.
- ◆ Heart.
- ◆ Abdomen.
- ◆ Genitalia, hernia, pubertal status (Tanner stage).
- ◆ Extremities (tone and range of motion).
- ◆ Behavior and mental status.

Referral and Follow-Up Process. School nurses and health care providers involved in the interviewing and examination of students may identify medical and non-medical issues requiring follow-up interventions. Effective follow up requires a knowledge of community health resources and good communication between school health personnel, parents, health professionals, and community agencies.

Documentation

The entire special education assessment is confidential. Any information should be documented in the student's record. The record is the responsibility of the director of special education or pupil personnel services. A copy of the medical/health history must be available for the school nurse.

⁹⁰ Engel, J. (1997). *Pocket Guide to Pediatric Assessment, Third Edition*. St. Louis, Mo.: Mosby.