

**SPAN** Statewide Parent Advocacy Network, Inc.

**IDEA and Section 504**

# Purpose of IDEA/Section 504

---

- IDEA – Education Law
- 504 – Civil Rights Law
  
- IDEA – Ensures FAPE for students with disabilities
- 504 – Protects individuals with disabilities in programs that receive federal dollars

# Who Must Comply?

---

IDEA – State and Local  
Education Agencies &  
Agencies contracted to fulfill  
district responsibilities

504 – Recipients of Federal Dollars

# Who is Protected - IDEA

---

Child, 0-21, with a disability that affects their ability to learn and requires special education and related services in order to benefit from their education.

# Who Is Protected - 504

---

- Individual who has, has had, or is perceived as having, a physical or mental impairment which substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, working; limits ability to attend, participate in, receive benefit from, schooling.

# What is required -IDEA

---

- Child Find
- Procedural Safeguards
- Parent Participation
- Nondiscriminatory Testing, Classification, Placement
- Least Restrictive Environment
- Free, Individualized & Appropriate Education

# What is required -Section 504

---

Section 504 of the Rehabilitation Act of 1973 provides that:

“No otherwise qualified individual with handicaps in the United States...shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”

# IDEA – Eligibility Classifications

Auditorily Impaired	Orthopedically Impaired
Autistic	Other Health Impaired
Cognitively Impaired	Social Maladjustment
Communication Impaired	Specific Learning Disability
Emotionally Disturbed	Traumatic Brain Injury
Multiply Disabled	Preschool Disabled
Deaf/Blindness	*Eligible for Speech/Language Services

# 504 - Examples

---

Cerebral Palsy	Dyslexia
Epilepsy	Dysgraphia
Muscular dystrophy	Rheumatoid arthritis
Multiple sclerosis	ADD/ADHD
Cancer	Cystic fibrosis
Diabetes	Severe allergies
Heart disease	Asthma
HIV/AIDS	

# Evaluation-IDEA

---

- Must evaluate in every area of suspected disability
- Initial evaluation must include at least two of the following areas:
  - Health
  - Psychological
  - Educational
  - Social
- Functional Assessments:
  - One structured observation in non-testing setting
  - Interview with parents; teacher/s
  - Review of pupil's developmental/educational history
  - Review of interventions used in classroom

# Evaluation - Section 504

---

- Parental consent required
- Team knowledgeable about the child and the disability
- Non-discriminatory multi-disciplinary testing
- Right to independent evaluation, at own expense, and to provide relevant information that must be considered by the team

# New Service Definitions Under IDEA

---

- Special Education & Related Services:
  - New language added to IDEA “based upon peer-reviewed research to the extent practicable.”
  - Parents can use this language to question recommendations for services and placements that are not appropriate, or to request other services and placements that are research-based
    - Example: inclusive practices, positive behavior supports; reading programs that address specific reading deficits

# Section 504 Accommodations Plan

---

*504 team must include someone knowledgeable of child and disability*

- Accommodations intended to allow “access”-
  - Physical barrier removal
  - Seating placement
  - Extended time for testing
  - Testing accommodations
  - Adjust class schedule
  - Rest periods
  - Use of aids (tape recorders, calculators, audio-visual equipment, computers, modified textbooks, etc.)

# Section 504 Accommodations Plan

---

- Push-in or pull-out services:
  - Note-taking
  - Oral catheterization
  - Administration of medication (no waivers)
    - Inhalers, oral, epi-pen
  - Monitoring of blood levels
  - Monitoring of physical status
  - Positive behavioral supports
  - Consultation
  - Service coordination
  - Tutors
  - Counseling, OT/PT, etc.

# Section 504 Accommodations Plan

---

- Non-discrimination, reasonable accommodations, meaningful program access, and as adequate an education as other children
- Applies to:
  - Magnet Schools
  - Choice programs
  - Before and after-school
  - Clubs
  - Graduation ceremonies
  - Extracurricular activities

# LRE

---

- Teachers and administrators must be made aware of their responsibilities
- Teachers & administrators must be provided with training and technical assistance to help them meet these obligations

# Confidentiality

---

- Family Education Records & Privacy Act
  - FERPA (Buckley Amendment)
  - Rights to confidentiality of records, and parent access to records
    - Right to access records upon request
    - Right to confidentiality of records without prior written consent
    - Right to confidentiality unless “need to know”
    - Right to request deletion/revision/attach comments

# Accountability – IDEA

---

- NJ must:
  - Set standards for performance of children with disabilities consistent with performance of non-disabled children and report to public at least every 2 years on progress
  - Set performance indicators to assess progress in academic achievement, drop-out rates, graduation rates
  - Students with disabilities must participate in district-wide assessment or alternate assessments
  - Make available & report to public on assessment results with same frequency as reported for non-disabled students

# Accountability – Section 504

---

- District must submit data to US DOE OCR about placement, performance, tracking and discipline
- OCR reviews data with possible investigations based on demonstration of potential discrimination

# Procedural Safeguards- IDEA

---

- Ensures that the rights of children with disabilities and their parents are protected
- Prior written notice regarding actions pertaining to a student's educational program
- Parent participation in meetings:
  - Where decisions will be made about referral, evaluation, eligibility, services & placement
  - Convenient scheduling & sufficient advance notice
  - Effort to include parents must be documented

# Resolution of Complaints – IDEA

---

- Complaint investigation
- Dispute Resolution Session
- Mediation
- Due Process Hearing
- Emergent relief
- Appeal to State or Federal Court
- If parent prevails – possible attorney’s fees awarded

*Exhaustion of administrative remedies required*

# Resolution of complaints - 504

---

District 504 coordinator or Grievance officer



Directly to OAL (NJ practice)



OR file complaint with USDOE OCR

(must be filed within 180 days of violation)



OR go immediately to Federal Court under a Section 1983  
action

*Exhaustion of administrative remedies not required*

**Thank You**  
**for joining us for this presentation.**

---

For more information, contact:

**SPAN**

**35 Halsey Street, 4<sup>th</sup> Floor**

**Newark, NJ 07102**

**Phone: 973-642-8100**

**Toll Free: 800-654-SPAN (7726)**

**Fax: 973-642-8080**

**[www.spannj.org](http://www.spannj.org)**

**Empowered Families: Educated, Engaged, Effective!**