

Legal Rights: School-Age vs. Post-Secondary



In high school, students are entitled to receive special education services under the Individuals with Disabilities Education Act (IDEA). Once they transition out of high school, they must be determined eligible for appropriate accommodations under the Americans with Disabilities Act (ADA) at their respective colleges, post-secondary schools, vocational training programs or workplace. It is never too early for families and young people to understand the differences between the IDEA and ADA and how those differences will affect them.

IDEA

- An education law requiring schools to provide an Individualized Education Program (IEP), a legal document that lists special education and related services that meet the individual needs of students with disabilities.
- Protects students from kindergarten until the end of high school (5-21).
- The right to a free and appropriate public education (FAPE) in the least restrictive environment (LRE) for students with disabilities. The LRE may be a general education classroom, but each student's LRE is individually determined.
- A requirement that public schools identify and evaluate, at no cost to parents, kids suspected of having a disability. Evaluations should occur in all areas of suspected disability.
- Due process for resolving disagreements between parents and schools.

ADA

- A civil rights law prohibiting discrimination on the basis of disability in schools, workplaces (with the exception of those with fewer than 15 employees), and public spaces.
- Applies to United States residents of any age.
- Legal rights for people with disabilities including physical accessibility and accommodations, which are reasonable adjustments to a job, a work environment, or to a student's academics in a post-secondary institution.
- ADA applies to universities, community colleges, and vocational programs.
- Freedom from discrimination at private schools, including colleges and universities, that receive federal funding.

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HIGH SCHOOL (UNDER INDIVIDUALS WITH DISABILITIES EDUCATION ACT)

- Services and supports are provided under IDEA or Section 504 of the Rehabilitation Act.
- Both parents and students advocate.
- Parents have access to student records.
- School district is responsible for students' evaluations at no cost to the family.
- Parents and teachers set annual goals and management needs for students, which may cover academics, behavior, daily living skills, physical accessibility, time management, and organizational skills.
- Grading and curriculum standards may be modified according to students' needs if a young person is alternately assessed.
- Transportation to and from school provided, if necessary.

POST-SECONDARY SCHOOL/EMPLOYMENT (UNDER AMERICANS WITH DISABILITIES ACT)

- Services and protections are provided under ADA (or Section 504 of the Rehabilitation Act).
- Students must disclose their disability and self-advocate for services and supports.
- Students have sole access to their records unless consent is given.
- Students are responsible for obtaining their own evaluation.
- Students must organize and structure their own time.
- Transportation is the students' responsibility.

KEY DIFFERENCES

- Unlike when students are in K-12 programs, students do not automatically receive services in post-secondary programs and must instead apply for accommodations. This is a shift from entitlement to eligibility and from services to accommodations.
- Students in post-secondary life need to disclose their disability and advocate directly for services and supports. The student becomes the primary advocate rather than the parent.