

Model for Educational Success: Meeting the Special Needs of Children with CFS

Eligibility for special services: IDEA vs 504. What is the difference?

<u>Component</u>	<u>IDEA</u>	<u>Section 504</u>
General Purpose	It 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.	It is a broad civil rights law which protects the rights of individuals with handicaps in programs and activities that receive Federal financial assistance from the US Department of Education.
Who is protected?	Identifies all school-aged children who fall within one or more specific categories of qualifying conditions.	Identifies all school-age children as handicapped who meet the definition of qualified handicapped person, ie, (1) has or (2) has had a physical or mental impairment which 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 Individual Education Program (IEP) of IDEA will suffice for Section 504 written plan. Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting.	Does not require a written IEP document, but does require a plan. It is recommended that the district document that a group of persons knowledgeable about the student convened and specified the agreed upon services.

<u>Component</u>	<u>IDEA</u>	<u>Section 504</u>
Responsibility to provide a FAPE (cont.)	"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 she/he meets the definition of qualified handicapped person, i.e. (1) has or (2) has had a physical or mental impairment which 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.
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, but a district would be wise to do so.

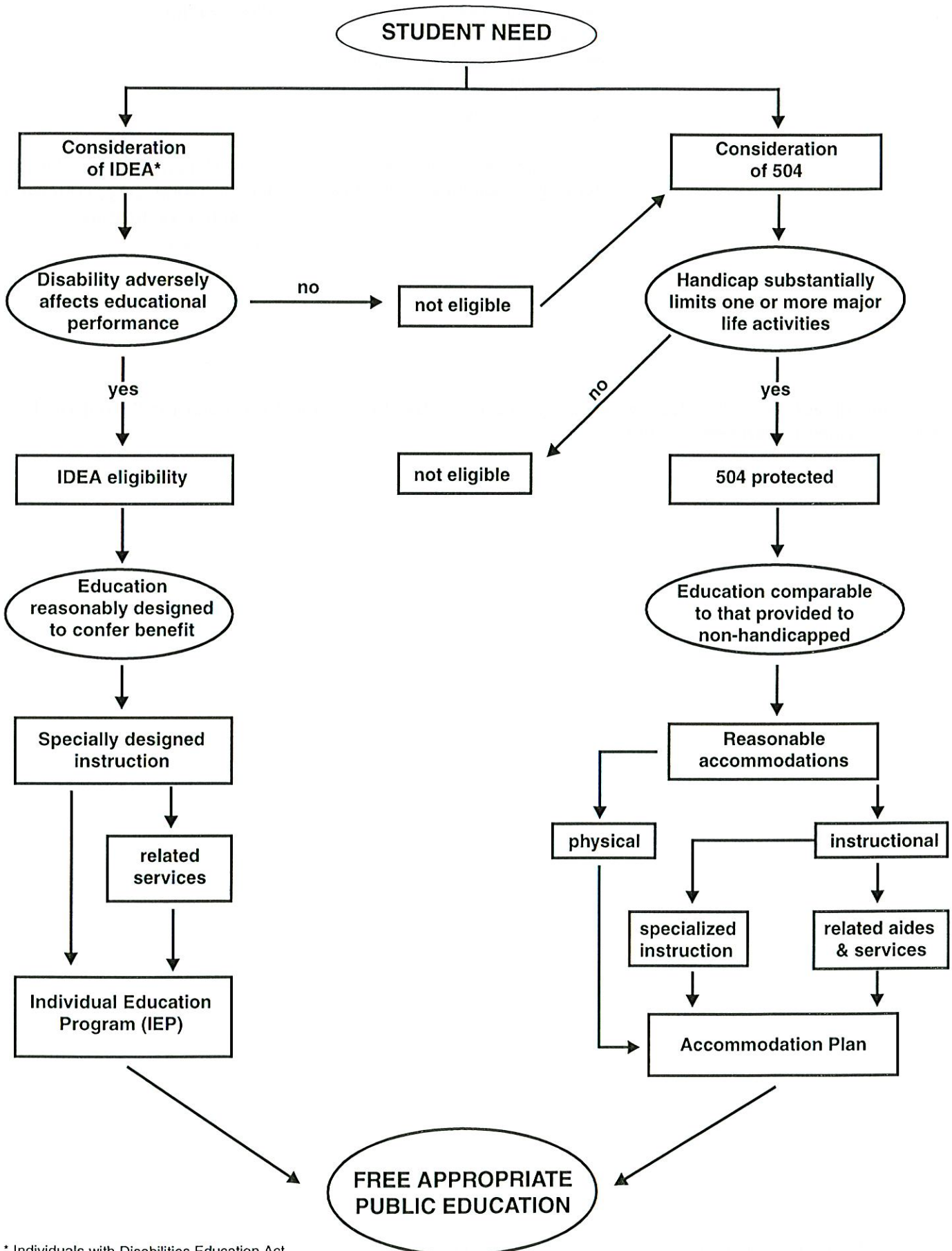
<u>Component</u>	<u>IDEA</u>	<u>Section 504</u>
Procedural Safeguards (cont.)	Delineates required components of written notice.	Written notice not required, but indicated by good professional practice.
	Requires written notice prior to any change in placement.	Requires notice only before a "significant change" in placement.
Evaluations	A full comprehensive evaluation is required, assessing all areas related to the suspected disability. The child is evaluated by a multidisciplinary 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 reevaluations 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 district expense if parent disagrees with evaluation obtained by school and hearing officer concurs.	No provision for independent evaluations at district expense. District should consider any such evaluations presented.

<u>Component</u>	<u>IDEA</u>	<u>Section 504</u>
Placement Procedures	When interpreting evaluation data and making placement decisions, both laws require districts to: - Draw upon information from a variety of sources. - Assure that all information is documented and considered. - 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. - Ensure that the student is educated with his/her non-handicapped peers to the maximum extent appropriate (least restrictive environment).	
	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 districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation of 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 OCR involvement or court action; compensatory damages possible.

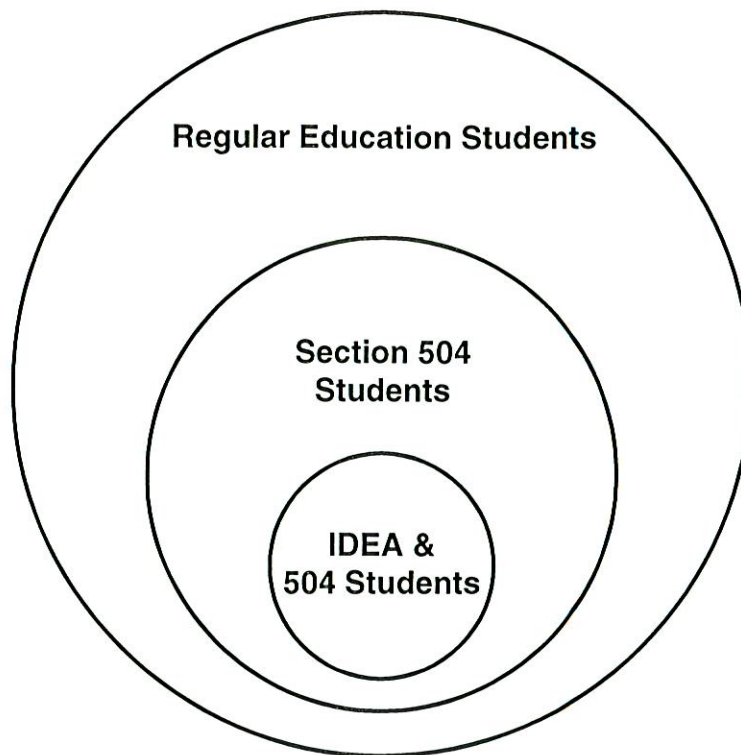
<u>Component</u>	<u>IDEA</u>	<u>Section 504</u>
Enforcement	Enforced by the US Office of Special Education Programs. Compliance is monitored by the State Department of Education and the Office of Special Education Programs The State Department of Education resolves complaints.	Enforced by the US Office of Civil Rights. State Department of Education has no monitoring, complaint resolution or funding involvement.

This information was presented by Elaine F. Brainerd, RN, MA, CSN, Consultant for School Health Services, State Department of Education.

IDEA*/504 FLOW CHART



STUDENT POPULATION



IDEA/504 STUDENTS

Students are qualified under one or more of 13 IDEA disabling conditions. Specially designed individual education programs 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 plan 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 disorder (ADD, ADHA)
- behavioral difficulties
- drug/alcohol addiction
- other conditions