



**PROTECTION & ADVOCACY**  
FOR PEOPLE WITH DISABILITIES, INC.

*THE PROTECTION AND ADVOCACY SYSTEM FOR SOUTH CAROLINA*

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## **P&A FACT SHEET**

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### **EDUCATION FOR CHILDREN WITH DISABILITIES**

There are two laws you should know about. Most parents know that federal law requires schools to give children with disabilities special help. **The Individuals with Disabilities Education Improvement Act (IDEA 2004)** is a well-known law requiring this type of special education. Another law also affects the education of children with a disability. It is **Section 504 of the Rehabilitation Act of 1973**. This fact sheet will give you information about these two laws.

Both laws require:

- Schools to identify every child with a disability who needs more than the regular school program to learn
- Testing and evaluation of a child's educational needs
- Children with disabilities and non-disabled students to attend school together
- Schools to provide every child with a free appropriate public education (FAPE)

There are also differences in the laws. Section 504 makes it illegal for any group receiving federal money to be unfair to a person with a disability. It applies to any school that receives federal money. This includes all public schools in South Carolina. Under IDEA 2004, schools receive money that they must use for children with disabilities.

S.C. State Department of Education (SDE) and the Office of Special Education and Rehabilitative Services (OSERS) within the U.S. Department of Education have oversight over IDEA 2004 law.

A complaint about schools not following IDEA 2004 can be sent to:

Staff Counsel  
Office of General Counsel  
S.C. Department of Education  
1429 Senate Street  
Columbia, SC 29201

More information about filing a complaint with the SC Department of Education is available on the Department's website at: <https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/state-complaint/>

Form: <http://ed.sc.gov/scdoe/assets/File/districts-schools/special-ed-services/SCDE%20Complaint%20Form.pdf>

A complaint about schools not following 504 can be sent to the Office of Civil Rights (OCR):

Director  
District of Columbia Office  
Office for Civil Rights  
U.S. Department of Education  
1100 Pennsylvania Ave., N.W., Rm. 316  
P.O. Box 14620  
Washington, D.C. 20044-4620

For more information about 504 complaints:

See P&A fact sheet: "Filing an Education Complaint under Section 504 of the Rehabilitation Act of 1973" and the U.S. Department of Education Office of Civil Rights website:

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

This publication provides legal information, but is not intended to be legal advice. The information was based on the law at the time it was written. As the law may change, please contact P&A for updates.

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P&A does not discriminate on the basis of disability, race, gender, or national origin in the provision of its programs or services. Pete Cantrell is P&A's designated coordinator for Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. February 2018

**HERE ARE SOME WAYS THE LAWS ARE SIMILAR AND DIFFERENT**

	<b>IDEA</b>	<b>SECTION 504</b>
<b>Who is covered?</b>	<p>Students who need special education and related services to learn.</p> <p>A child must have one of the following conditions:</p> <p>Mental retardation, hearing problem, speech or language problem, visual problem, serious emotional problem, physical disability, autism, traumatic brain injury, a learning disability, or other health problem, such as Attention Deficit Hyperactivity Disorder.</p> <p>The problem must affect the student's ability to learn.</p>	<p>Students who do not need special education, but still need changes in the regular school program to learn.</p> <p>A child must have a physical or mental problem which limits a major life activity such as:</p> <p>Caring for one's self, doing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.</p> <p>HIV positive &amp; the AIDS virus are considered physical disabilities under 504.</p> <p>The problem does not have to affect a child's ability to learn.</p>
<b>What ages?</b>	<p>3 – 21 years (3<sup>rd</sup> birthday – 22<sup>nd</sup> birthday)</p>	<p>Anyone who attends any school, preschool through college, that receives federal money. Parents with a physical or mental disability must also have their needs met, such as an interpreter at a teacher conference for a deaf parent.</p>
<b>How do you know if a child needs special education?</b>	<p>A child must:</p> <ul style="list-style-type: none"> <li>• Be evaluated and found to need special education,</li> <li>• Have a written individual education program (IEP), and</li> <li>• Be placed in a special education program in the least restrictive class as possible.</li> </ul>	<p>A child must:</p> <ul style="list-style-type: none"> <li>• Be evaluated and found to have a disability and</li> <li>• Need changes to the regular school program to benefit from it.</li> </ul>
<b>What type of education must be provided?</b>	<p>A variety of classroom situations must be available for every child. The child should be placed in the program that will best fit his or her educational needs.</p> <p>A child should be educated as much as possible in the regular school programs, including extracurricular activities and field trips.</p>	<p>A child's special needs must be met through accommodations in the regular school program, including extracurricular activities and field trip.</p> <p>Examples of necessary accommodations are curb cuts for a wheelchair, classroom aides, special equipment and smaller class size.</p>
<b>What is a parent's role?</b>	<p>A parent should take part in any decisions made about the child, including:</p> <ul style="list-style-type: none"> <li>• Agreeing to the first evaluation of the child for special education,</li> <li>• Discussing plans for special education,</li> <li>• Helping prepare the IEP,</li> <li>• Sharing information about their child,</li> <li>• And being told of any changes in the child's school program.</li> </ul>	<p>A parent should take part in any decisions made about the child, including:</p> <ul style="list-style-type: none"> <li>• Sharing information about their child,</li> <li>• Helping to prepare the 504 plan,</li> <li>• And being told of any changes in the child's school program.</li> </ul>
<b>What if a parent does not agree?</b>	<p>When parents and the school do not agree about what is best for the child, parents have a right to:</p> <ul style="list-style-type: none"> <li>• Ask the S.C. State Department of Education, through a Complaint, to help reach an agreement OR ,</li> <li>• Request mediation</li> <li>• Ask for a due process hearing, to present the issues</li> <li>• Appeal a due process hearing decision to the S.C. State Department of Education, and</li> <li>• Appeal the state's decision by filing a civil lawsuit</li> </ul>	<p>When parents and the school do not agree about what is best for the child, parents have a right to:</p> <ul style="list-style-type: none"> <li>• Ask the Office of Civil Rights to look into the problem and offer a solution.</li> <li>• Ask for an administrative hearing.</li> </ul>