



Eligibility Under IDEA and Section 504 Frequently Asked Questions

1. How does a child become eligible for special education services under IDEA?

IDEA sets forth two criteria for determining whether a child is eligible for special education and related services. First, the child must have a disability. Second, as a result of the disability, the child must need special education and related services.

There are 13 disability categories under IDEA which are as follows: Autism, Deafness, Deaf-blindness, Hearing impairment, Mental retardation, Multiple disabilities, Orthopedic impairment, Other health impairment (which includes ADD/ADHD), Serious emotional disturbance, Specific learning disability, Speech or language impairment, Traumatic brain injury, Visual impairment (including blindness).

2. How do I determine whether my child meets the eligibility criteria under IDEA?

If a parent believes their child may need special education services, the parent should send a written request to the school district requesting that their child be evaluated to determine whether the child is in need of special education services. If the District has reason to believe the child may need special education services they can initiate the evaluation process as well.

Regardless of who initiates the evaluation process, the parent will be presented with a form entitled "Permission to Evaluate" which the parent should sign and return to the District as soon as possible. Upon receipt, the District has 60 school days to conduct a comprehensive psycho-educational evaluation. The evaluation assesses several areas of the child's cognitive

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and physical development and abilities. Assessments are based on formal and informal evaluations and observations by School Psychologists, Speech and Language Pathologist, Occupational Therapist, Teachers and Parents. The information gathered is then used to determine whether the child meets the eligibility criteria. The information is presented in an Evaluation Report. If it is determined that the child is eligible, the information is then used to create an Individualized Education Plan (IEP).

3. How does a student become eligible to receive services and protection under Section 504?

To become eligible for services and protection under Section 504, a student must be determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

A physical or mental impairment described as: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following basic systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and special learning disabilities.

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

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4. When should the district evaluate a student for a disability under Section 504?

A District should conduct an evaluation when:

- a.) a student is referred to the child study team for a special education evaluation, but is determined not eligible for services under the Individuals Disabilities Education Act (IDEA).
- b.) a student is referred to the child study team and it is determined that a special education evaluation is not warranted.
- c.) a student show a patterns of not benefiting from the instruction provided.
- d.) a student returns to school after a serious illness or injury.
- e.) a the student exhibits a chronic health condition.

5. Is every student with a disability who is eligible under the IDEA also covered under Section 504?

Yes. Students who are eligible for special education programs and related services under the IDEA meet the definition of eligibility under Section 504. IDEA eligible students are entitled to additional protections and services offered under Section 504, e.g., the right to accessible facilities.

If you would like to receive an electronic copy or more information regarding this list of frequently asked questions, please visit our website at <http://www.mcandrewslaw.com/> or call (610) 648-9300.

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