

Understanding the Differences Between IDEA and Section 504

Laurie U. deBettencourt

What should I do if a student has difficulty in my classroom?

Does the student have a disability?

Is it specified in IDEA?

Does the student have a mental or physical impairment that affects a major life function?

What is Section 504, anyway?

Who is the Section 504 official in my school or district?

What is a FAPE?

What forms do I need to fill out?

When can a student be reevaluated?

Teachers should ask themselves questions like these to determine how to

help students who are having difficulty in their classrooms. All teachers must understand the provisions of two major laws—the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973—and what similarities and differences exist (Cohen, 1997; Roberts & Mather, 1995; see box, "Background on IDEA and Section 504").

Both general and special education teachers need to know the most appropriate law applicable for students having difficulty in their classrooms. (See Figure 1 for flowchart of questions; and see Figure 2 for a helpful self-quiz.) This article provides information on these two laws and answers many questions that teachers have.

Overview of IDEA and Section 504

IDEA is a federal law that governs all special education services in the United States. IDEA provides some federal funding to state and local education agencies to guarantee special education and related services for those students who meet the criteria for eligibility in a

number of distinct categories of disability, each of which has its own criteria.

In contrast, Section 504 is a civil rights statute, rather than a federal, programmatic statute; and thus, the federal government does not provide additional funding for students identified. Section 504 requires that schools, public or private, who receive federal financial assistance for educational purposes, not discriminate against children with "handicaps" (i.e., disabilities). Schools must provide these students with reasonable accommodations comparable to those provided to their peers under the rulings of Section 504. Although not a financing statute, Section 504 does provide for enforcement of the mandate. If schools are found by the Office of Civil Rights to be out of compliance with Section 504, their federal financing may be removed (Roberts & Mather, 1995).

The criteria for identification, eligibility, appropriate education, least restrictive environment, and due process procedures under IDEA and Section 504 are somewhat different, as described in the following sections.

All teachers need to be aware of the legal guidelines for the day-to-day identification, eligibility, and evaluation of the students with disabilities in their classrooms.

Identification

Under the IDEA guidelines, school districts are required to identify and evaluate children suspected of having a disability. Such “child find” activities should be publicized. This requirement extends beyond the children receiving services in the public schools; it also includes students who reside in the school district but do not attend the public schools. The official comment to the regulations states that the “child find” obligation includes *all* children with disabilities, including children attending private schools (see <http://www.ideapractices.org>).

Many school districts use a parental handbook (i.e., packet of information given to parents the first day of school) as a method for identification of students in need of services. Handbooks distributed to families at the beginning of the school year might include information about many school procedures, for example: (a) snow day procedures, (b) hot lunch menus, and (c) information about what to do if your child has difficulties in school.

Section 504 does require school district personnel to identify and locate students within their school district suspected of having a disability who attend public schools, private schools, or state agencies. (See Table 1, page 18, for differences in identification.)

Eligibility

For a child to be eligible for services under IDEA, the child must meet the criteria for eligibility in one or more of 13 categories of disabilities identified in the law. Alternatively, at the discretion of the state and the LEA, a child ages 3 through 9 may be found eligible if he or she is experiencing development delays in one or more of the areas specified below and, by reason thereof, needs special education and related services. The areas of developmental delay are: physical development, cognitive development, communication development, social or emotional development, or adaptive development, and by reason thereof needs special education and related services. The 13 categories of disabilities identified in the law are:

1. Autism

Background on IDEA and Section 504

In the United States, since 1975, every child with a disability has been entitled to a free appropriate public education (FAPE) designed to meet his or her individual needs under the rules and regulations of Public Law 94-142, the Education for All Handicapped Children Act. In 1990, this law was revised and reauthorized as the Individuals with Disabilities Education Act (IDEA, P.L. 101-476, P.L. 105-17). Further revisions were made to IDEA, and the IDEA Amendments were signed in 1997.

There are approximately 5 1/2 million children with disabilities who receive special education and related services and are protected by IDEA (U.S. Department of Education, 2000). However, some children with special needs are not served under IDEA but are served under Section 504 of the Rehabilitation Act of 1973 (hereinafter “Section 504”). Section 504, a civil rights law, prohibits discrimination on the basis of disabling conditions by programs and activities receiving or benefiting from federal financial assistance. Knowledge of the provisions of the two laws and their differences can assist teachers in planning the most appropriate education for students with disabilities.

It is especially critical for general education teachers to comprehend the implications of these laws within their classrooms because many students with disabilities currently spend the majority of the school day in general education classrooms. Approximately 70% of students with disabilities receive special education and related services in a general education classroom, with some receiving part-time resource assistance (U.S. Department of Education, 2000). Therefore, general education teachers need to be aware of the legal guidelines for the day-to-day identification, eligibility, and evaluation of the many students with disabilities in their classrooms according to Section 504 and IDEA.

2. Specific learning disability
3. Speech or language impairments
4. Emotional disturbance
5. Traumatic brain injury
6. Visual impairment
7. Hearing impairment
8. Deafness
9. Mental retardation
10. Deaf-blindness
11. Multiple disabilities
12. Orthopedic impairment
13. Other health impairment

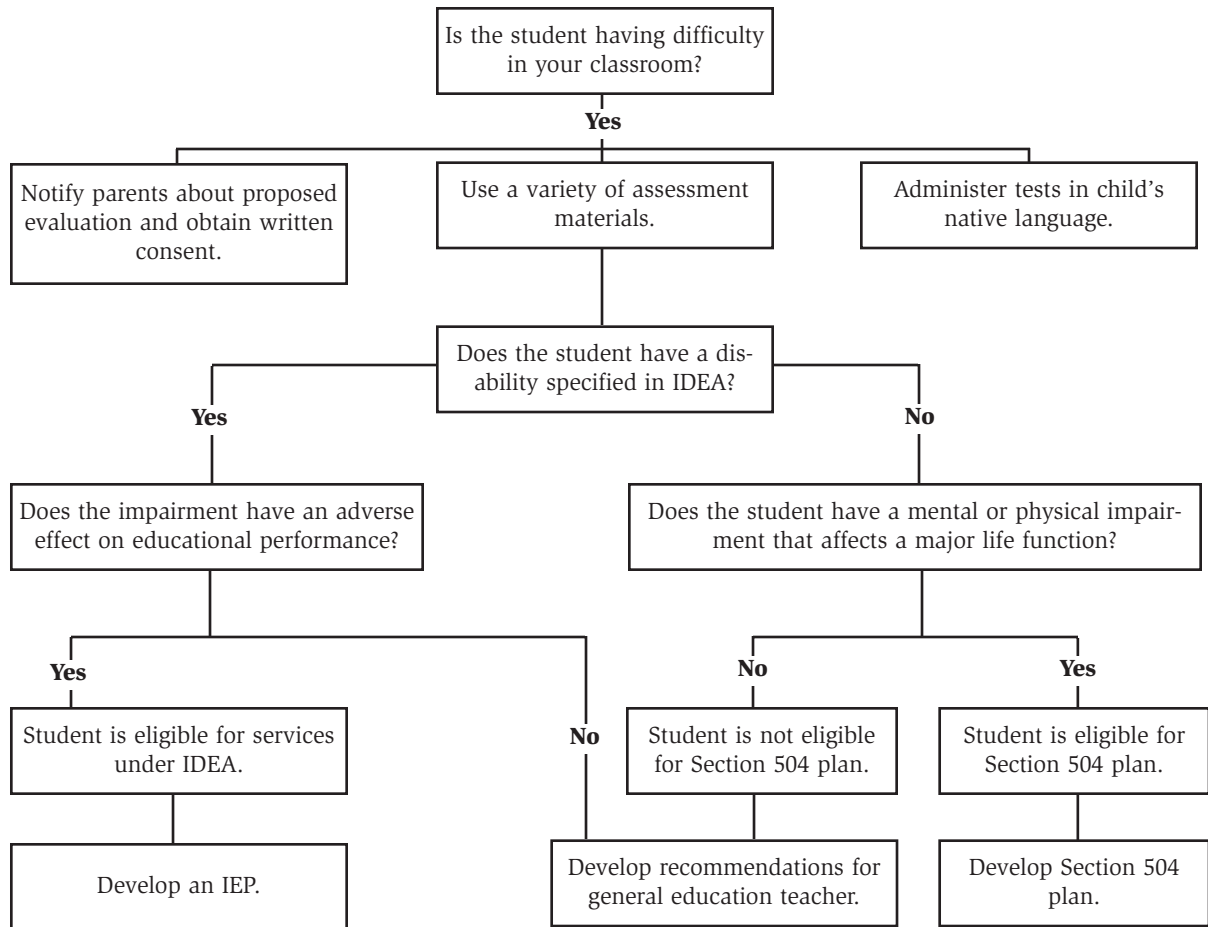
Each category has specific criteria specifying the presence of the disabling condition; in addition, the disabling condition must adversely affect the student’s educational performance. Schools often use failure as the criterion for “adversely affecting educational performance.”

Attention deficit/hyperactivity disorder (ADD/ADHD) is not a discrete category under IDEA; however, a student with ADD or ADHD may be served under IDEA if one of the following applies:

- His or her ADD/ADHD causes the child to have learning or emotional disabilities and he or she meets the criteria under the category of learning disabilities or emotional disturbance.
- The student meets the criteria for “other health impaired” (OHI); that is, his limited strength, vitality, or alertness, including a heightened

Related services provided under IDEA may include speech and language therapy, occupational therapy, physical therapy, counseling services, psychological services, social services, and transportation.

Figure 1. Questions to Ask When Determining Appropriate Services



Note: IDEA = Individuals with Disabilities Education Act (amended 1997); IEP = individualized education program; Section 504 = Section 504 of the Rehabilitation Act of 1973.

IDEA is a federal law that governs all U.S. special education services; Section 504 is a civil rights statute, requiring that schools, public or private, who receive federal financial assistance for educational purposes, not discriminate against children with disabilities.

alertness to environmental stimuli results in limited alertness with respect to the educational environment, that adversely affects his educational performance (Reid & Katsiyannis, 1995). Each state varies somewhat in its specific criteria for eligibility for OHI.

To be eligible for services under Section 504, the existence of an identified physical or mental condition (e.g., asthma) must substantially limit a major life activity. Major life activities include the following: walking, seeing, hearing, speaking, breathing, learning, working, and caring for oneself. It is up to the school district to determine whether a particular impairment "substantially limits" a major life activity. The definition for eligibility used by

most school districts is broader under Section 504 in comparison to IDEA.

Evaluation

Specific procedures are required for a student to be evaluated for possible services under IDEA and Section 504. Under IDEA, a full comprehensive evaluation is required, assessing all areas related to the suspected disability. Testing must be multidisciplinary, nondiscriminatory, and at no cost to the parents. A reevaluation of each child is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every 3 years. The parents must be involved and give informed consent before the school conducts an initial evaluation. In addition, IDEA pro-

Figure 2. Quiz—Check Your Understanding of the Differences Between Section 504 and IDEA

1. A student identified for services under Section 504 would need all of the following *but*
 - a. An impairment that limits a major life activity
 - b. A special education categorical classification
 - c. A handicap
 - d. Difficulty in school
2. A reevaluation for a student who is receiving services under IDEA could be provided when
 - a. Parents request one
 - b. Teachers request it
 - c. Within 3 years
 - d. All of the above
 - e. None of the above
3. A Free Appropriate Public Education (FAPE) is designed to provide
 - a. “Educational benefit” for those students identified under Section 504
 - b. Related services only for those students identified under IDEA
 - c. Special education placement for the students identified under IDEA
 - d. Special education placement for the students identified under Section 504
4. Due Process Procedures include all of the following except
 - a. Impartial hearings
 - b. Consent requirements
 - c. Annual goals and short-term objectives
 - d. Representation by counsel
5. Teachers should know
 - a. Who their Section 504 compliance officer is at their school building
 - b. What forms are used to document the process of identifying a student for services under Section 504 and IDEA
 - c. What the school district requirements are for Section 504 and IDEA
 - d. All of the above

Note: IDEA = Individuals with Disabilities Education Act (amended 1997); Section 504 = Section 504 of the Rehabilitation Act of 1973. [Answers: 1.b 2.d 3.c 4.c 5.d]

Table 1. Identification Differences

IDEA	Section 504
All school-aged children who fall within one or more specific categories of qualifying conditions (i.e., autism, specific learning disability, speech or language impairment, emotional disturbance, traumatic brain injury, visual impairment, hearing impairment, deafness, mental retardation, deaf-blindness, multiple disabilities, orthopedic impairment, and other health impairments)	Individuals who meet the definition of qualified “handicapped” person—i.e., has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as handicapped by others (major life activities include: walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks)
Requires that child’s disability adversely affect educational performance	Does not require that the student needs special education to qualify
<i>Note:</i> IDEA = Individuals with Disabilities Education Act (amended 1997); Section 504 = Section 504 of the Rehabilitation Act of 1973.	

vides for independent educational evaluation at the school district’s expense if parents disagree with evaluation obtained by the school. In some cases, due process hearing officers have found that school district evaluations were appropriate and that the parents had to bear the cost of the independent educational evaluation.

Under Section 504, a student must be identified through evaluation procedures that gather information from a variety of sources. Decisions about the student, evaluation data, and placement options need to be made by knowledgeable individuals. Such assessment decisions do not require written consent of the parents, only notice to the parents; however, good professional practice indicates use of informed consent. Section 504 does require “periodic” reevaluations, and a reevaluation is

Table 2. Differences in Evaluation

IDEA	Section 504
Full comprehensive evaluation required by multidisciplinary team	Evaluation draws on information from a variety of sources and is documented
Requires informed and written consent	Decision made by knowledgeable group Does not require consent of parents, only notice
Requires a reevaluation of each child, if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every 3 years.	"Periodic" reevaluation required
Provides for independent evaluation at district expense if parents disagree with first evaluation	No provision for independent evaluation at school's expense
Reevaluation not required before significant change in placement	Reevaluation required before a significant change in placement
<i>Note:</i> IDEA = Individuals with Disabilities Education Act (amended 1997); Section 504 = Section 504 of the Rehabilitation Act of 1973.	

required before a "significant" change in placement takes place. There is no provision in place that allows for independent evaluation at the school district's expense. (See Table 2 for differences between IDEA and Section 504 in Evaluation.)

Appropriate Education

Under the regulations of IDEA, school districts are required to provide a FAPE to children identified as having a disability and meeting the specific criteria of the 13 distinct categories. "Appropriate education" means a program designed to provide "educational benefit." When identified, the student is enti-

tled to an individualized education program (IEP), which must include the following (from www.ideapractices.org under Subpart C Services Section 300.347 that gives the content of the IEP):

- A statement of the child's present levels of educational performance, including measurable annual goals and benchmarks or short-term objectives.
- A statement of the special education and related services and supplementary aids and services to be provided to the child.
- An explanation of the extent, if any, to which the child will not participate with children in the general education class.
- A statement of any individual modifications in the administration of statewide or districtwide assessments of student achievement that are needed for the child to participate in the assessment; and if the IEP team deter-

mines that the child will not participate in a particular statewide or districtwide assessment of student achievement (or part of an assessment), a statement of why that assessment is not appropriate for the child; and how the child will be assessed.

- The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.
- A statement of how the child's progress toward the annual goals will be measured.
- How the child's parents will be regularly informed (through such means as periodic report cards).
- For each student with a disability, beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program).

Public school officials must initiate and conduct IEP meetings periodically, but at least once every 12 months, to review each child's IEP, to determine whether the annual goals for the child are being achieved, and to revise the IEP, as appropriate.

Although the public school is responsible for determining when it is necessary to conduct an IEP meeting, the parents of a child with a disability have the right to request an IEP meeting at any time. For example, if the parents believe that the child is not progressing satisfactorily or that there is a problem with the child's current IEP, it would be appropriate for the parents to request an IEP meeting.

Specific participants are required to be present at the IEP meeting. The IEP team for each child with a disability should include the following:

- The parents of the child.
- At least one general education teacher of the child (if the child is, or may be, participating in the general education environment).

The parents of a child with a disability have the right to request an IEP meeting at any time.

- At least one special education teacher of the child, or if appropriate, at least one special education provider of the child.
- A representative of the public school system who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; is knowledgeable about the general curriculum; and is knowledgeable about the availability of resources of the public agency.
- A person who can interpret the instructional implications of evaluation results.
- At the discretion of the parent or the agency, other people who have knowledge or special expertise regarding the child, including related services personnel, as appropriate.
- If appropriate, the child.

The implementation of the IEP may take place within special education classrooms or within general education classrooms or a combination of both. Related services are provided at no additional cost for the family if students require them to benefit from specially designed instruction outlined in the IEP. Related services may include speech and language therapy, occupational therapy, physical therapy, counseling services, psychological services, social services, and transportation.

Under Section 504, an “appropriate” education means an education comparable to that provided to students without disabilities. The school district personnel are responsible to develop a Section 504 plan. Although the written document is not mandated, it is recommended. The IEP form may be used for the Section 504 plan, but many schools use a different form for the Section 504 accommodation plan (see Conderman & Katsiyannis, 1995). There are no specific requirements concerning parental participation or frequency of review. Students served under Section 504 can receive specialized instruction, related services, or accommodations within the general education classroom. Contrary to popular belief, Section 504 is not limited to general education-based services or modifications of general education programs. (See Table 3 for differences in

Table 3. Differences in Responsibility to Provide Free Appropriate Public Education (FAPE)

IDEA	Section 504
Requires an individualized education program (IEP)	Does not require an IEP, but does require a plan
Appropriate education means a program designed to provide “educational benefit” for a person with disabilities	“Appropriate” means an education comparable to the education provided to those students who are not disabled
Placement may be any combination of special education and general education classrooms	Placement usually in general education classroom
Related services, if required	Related services, if needed
<i>Note:</i> IDEA = Individuals with Disabilities Education Act (amended 1997); Section 504 = Section 504 of the Rehabilitation Act of 1973.	

responsibility to provide appropriate education.)

Least Restrictive Environment

Both IDEA and Section 504 require that services for students with disabilities be provided within the least restrictive environment. The least restrictive environment refers to the provision that students with disabilities be educated to the maximum extent appropriate with students who do not have disabilities. IDEA is more explicit in this provision than Section 504.

Under Section 504, there are no limits on the services provided (e.g., counseling and speech both may be included), or where the services may be provided (e.g., in the general education classroom or the special education classroom). Section 504, however, requires that programs and services be accessible to students with disabilities.

Due Process

The due process procedural safeguards under IDEA include that the parents have the right to

- Consent to initial evaluation and services.
- Participate in all IEP meetings to discuss their child’s program.
- Be informed by written notice of changes the school district proposes

in placement or services of their child.

- Request an independent evaluation and an impartial due process hearing.
- Be notified of the results of the hearing within 10 days by an independent hearing officer or counsel, and receive a written decision or taped transcript.

If parents are unhappy with the school district’s decisions, they may file a complaint with their state department or with the Office of Special Education within the U.S. Department of Education.

Under the regulations of Section 504, parents have the right to

- Be notified that the school is proposing or stopping services for their child.
- Review their child’s records.
- Ask for an impartial hearing and review process.

Students served under Section 504 can receive specialized instruction, related services, or accommodations within the general education classroom.

The regulations do not specify a time-line requirement. If parents are unhappy with the school district's decisions, they may request an impartial due process hearing with the school district; or they may file a complaint with the U.S. Department of Education's Office for Civil Rights for violation of Section 504. (See Table 4 for Due Process Differences.)

Synthesis of Differences

The major differences between IDEA and Section 504 are in the flexibility of the procedures. For children to be identified as eligible for services under Section 504, there are less specific procedural criteria governing the requirements of the school personnel. Schools may offer less assistance and monitoring with Section 504 because there are fewer regulations by the federal govern-

ment instructing them, especially in terms of compliance.

In contrast, students identified for services under IDEA must meet specific criteria; and the degree of regulation is more specific in terms of time-frames, parental participation, and formal paperwork requirements. In addition, IDEA speaks to special education of students with disabilities from preschool to graduation only (ages 3-21). Section 504 covers the lifespan and safeguards the rights of persons with disabilities in many areas of their lives, including employment, public access to buildings, transportation, and education.

Implications for Teachers and Administrators

General education teachers need to be aware of the differences between the IDEA regulations and Section 504.

Internet Resources

IDEA Practices Home Page:
<http://ideapractices.org>
 Family & Advocates Partnership for Education (FAPE) Web Site: <http://www.fape.org>
 Policymaker Partnership at the National Association of State Directors of Special Education: <http://www.ideapolicy.org/home.htm>
<http://www.idonline.org>
<http://www.ed.gov>
<http://www.cec.sped.org>
<http://www.ed.gov/offices/OSERS/IDEA>
<http://www.edlaw.net>
<http://www.idanatl.org>
<http://www.reedmartin.com>
<http://www.chadd.org>

Table 4. Differences in Due Process Procedures

IDEA	Section 504
Must provide impartial hearings for parents who disagree with the identification, evaluation, or placement of the student	Must provide impartial hearings for parents who disagree with the identification, evaluation, or placement of the student
Requires written consent	No consent requirement
Delineates specific procedures	Requires that parent have an opportunity to participate and be represented by counsel—other details left to the discretion of the school
Hearing Officer appointed by impartial appointee	Hearing Officer usually is appointed by school
Provides "stay-put" provision until all proceedings are resolved	No "stay-put" provisions
Parents must receive 10 days notice prior to any change in placement	No requirement of days notice prior to change of placement
Enforced by U.S. Department of Education, Office of Special Education	Enforced by U.S. Department of Education, Office of Civil Rights

Note: IDEA = Individuals with Disabilities Education Act (amended 1997); Section 504 = Section 504 of the Rehabilitation Act of 1973.

Because there are more and more identified children with attention-deficit disorder, communication diseases, and medical conditions (e.g., arthritis, AIDS, cancer) who are served in schools today, teachers need to know if these children are entitled to Section 504 or IDEA services. Students who are temporarily disabled also might be entitled to Section 504 services and an accommodation plan.

Students who are ineligible for services under the IDEA or are no longer entitled to services under IDEA (e.g., students with learning disabilities who no longer meet IDEA eligibility criteria) may be entitled to accommodations under Section 504. General and special education teachers need to understand the differences. Table 5 lists several basic suggestions for teachers.

Implications for Preservice Teacher Preparation

As university faculty continue to train teachers in the legal requirements of IDEA and Section 504, they should emphasize not only the provisions of each, but also the distinctions between them. Frequently preservice and inservice teachers complete their training programs with minimal understanding of

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Table 5. Suggestions for Teachers	
Awareness of personnel	Teachers should know who serves as the School Based Chairperson for IDEA and who serves as the Section 504 Compliance Officer.
Awareness of forms	Teachers should know what school district forms are used to document the process of identifying and serving students under IDEA and Section 504.
Teacher documentation	Examples of students' inability to stay on task, emotional outbursts, and completed work should be kept on a daily basis. Copies of individualized education programs (IEPs) and completed forms should be available for review by the teacher on a regular basis. A record of all telephone calls and meetings with parents should be kept in a secure place.
Awareness of school policies	Teachers should keep a copy of school district requirements for Section 504 and IDEA.
Confidentiality	Teachers should keep all materials confidential, including names of children.
Note: IDEA = Individuals with Disabilities Education Act (amended 1997); Section 504 = Section 504 of the Rehabilitation Act of 1973.	

the provisions of IDEA and less awareness of Section 504. Indeed, in many college-level assessment or legal-issues classes, instructors mention Section 504, but only with a brief introduction. We are doing a disservice to these teachers by not including in their preparation a clear understanding of the differences between Section 504 and IDEA.

Teachers and administrators need to understand the applicability of Section 504 to the everyday activities at the school level. Currently, the public schools are serving more and more children with attention-deficit disorders and children with learning disabilities. With the increase in numbers of students with these disabilities, the understanding of Section 504 and its distinguishing provisions is critical to practicing general and special education teachers and administrators.

Final Thoughts

For some students, provision of appropriate modifications and accommodations is the only way they will be successful in their school experiences. We need to understand the provisions of

both IDEA and Section 504 so that we can be better prepared to identify and serve students in our schools.

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