



# LAWS AFFECTING TRANSITION

**This fact sheet will introduce laws that impact the transition of individuals with disabilities from school to adult life. The laws that will be introduced in this fact sheet include:**

- ✓ Individuals with Disabilities Education Improvement Act or IDEA 2004,
- ✓ Family Education Rights and Privacy Education Act (FERPA),
- ✓ Rehabilitation Act of 1973,
- ✓ Section 504 of the Rehabilitation Act – An Anti-Discrimination Law,
- ✓ Americans with Disabilities Act (ADA),
- ✓ Carl D. Perkins Vocational and Applied Technology Education Act,
- ✓ Fair Labor Standards Act (FLSA),
- ✓ School-To-Work Opportunities Act, and
- ✓ Ticket to Work and Work Incentives Improvement Act of 1999.



## **INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OR IDEA 2004**

In 1990, amendments reauthorized Public Law 94-142 – originally enacted in 1975 – under a new public law number, Public Law 101-476. This reauthorization also changed the name of the original act to the Individuals with Disabilities Education Act, now commonly referred to as IDEA. In 2004, IDEA was again amended and became the Individuals with Disabilities Education Improvement Act – Public Law 108-446.

This act ensures that all children with disabilities have available to them a free appropriate, public education that includes special education (individually designed instruction) through the Individualized Education Program (IEP), in the least restrictive environment and related services to meet their unique needs.

The six principles of IDEA '97 are key to understanding the intent and spirit of the law. These include:

1. Free Appropriate Public Education (FAPE): FAPE means special education and related services are available to eligible children with disabilities age 3 to 22 and are to be provided at no cost to the parents. The provision of FAPE differs for each child, but the principle is the same. FAPE applies to all children with disabilities, including those who have been suspended or expelled from school.
2. Appropriate Evaluation: Appropriate evaluation is used to gather accurate information to determine eligibility and continued eligibility, as well as identifies the student's strengths and educational needs. An Individualized Education Program (IEP) is then designed to respond to the student's needs.
3. Individualized Education Program (IEP): The IEP is a legally binding, written document that outlines the special education program services and related services based on the child's educational needs.

***If your child has special needs, so do you! We can help!***

230 West 200 South, Suite 1101

Salt Lake City, UT 84101-1337

801-272-1051 or 800-468-1160

[www.utahparentcenter.org](http://www.utahparentcenter.org)

4. Least Restrictive Environment (LRE): LRE is the environment where the student can receive an appropriate education designed to meet his or her special education needs, while still being educated with nondisabled peers to the maximum extent appropriate.
5. Parent and Student Participation in Decision-Making: IDEA requires that parents must be given the opportunity to play a central role in the planning and decision-making of their child's education. Parents must have the opportunity to participate in meetings regarding identification, evaluation, educational placement, and the provision of FAPE to the student. Student rights and participation are expanded and encouraged, particularly when addressing transition planning.
6. Procedural Due Process: Procedural due process refers to the safeguards designed to protect the rights of the parents and their child with a disability, as well as give families and schools a mechanism for resolving disputes.

Part B of IDEA outlines the special education process for eligible children from age 3 through graduation or age 22, whichever comes first. This includes special education preschool which serves children with disabilities who are ages 3 to 5. The Utah State Office of Education is the lead agency responsible for overseeing special education. The specific child identified educational needs and services are written in an Individualized Education Program or IEP. Transition planning within the IEP is covered later in this handbook.

The IEP is a critically important provision of the IDEA. Parents need to understand the process through which IEPs are developed to fully understand transition planning within the IEP process. Parents have important roles and responsibilities on behalf of and with their child. For more information about IEPs, contact the Utah Parent Center at (801) 272-1051 or toll-free in Utah at 1-800-468-1160.

### FAMILY EDUCATION RIGHTS AND PRIVACY ACT (FERPA)

This act guarantees parents the right to inspect and review their child's file, says that only people who need to see the file can, and allows the parents to challenge information in the file you feel is inaccurate or misleading. If you disagree with things in the file, you can ask the school to take them out. If they refuse you may attach a letter to the page in question telling why you disagree or request a due process hearing.

### REHABILITATION ACT OF 1973

In 1992 the Rehabilitation Act of 1973 was amended significantly and on March 13, 1997 Final Rule amendments to regulations governing the State Vocational Rehabilitation (VR) Services Program became effective. The Act shows changes in the way Americans see people with disabilities. Historically, having a disability has been seen as a medical problem to be "fixed". Attitudes are changing; people are starting to understand that individuals with disabilities are capable of participating in all of life's growth experiences, responsibilities, and growth.

The act assumes that people can benefit from Vocational Rehabilitation (VR) services regardless of the severity of their disability, if given appropriate services and supports. The burden of proof that a person with a disability cannot work is placed on the VR agency.

This Rehabilitation Act uses the *same definition of transition as the IDEA* in an effort to encourage collaboration between education and rehabilitation. There are three major areas of emphasis dealing directly with transition in the Act. It:

1. uses the same definition of transition as IDEA.
2. reduces the gaps of services and barriers for consumers moving from public school systems to VR.
3. requires that VR and education work together to fund and train young adults with disabilities to prepare them for meaningful employment.

There are key areas specific to transition discussed in the law, namely:

1. **Eligibility** - the Act specifically states that existing documentation from education agencies should be used whenever possible as evidence that there is a mental or physical disability.
2. **Assessment** - the rehab agency is to use documentation from other agencies, including education agencies in the development of the Individualized Plan for Employment (IPE).
3. **Career Development** - the Act supports the development of a career as opposed to the emphasis on the attainment of a single job. This emphasis will allow more support of consumers in post-secondary programs, including colleges and universities.
4. **Individualized Plan for Employment (IPE)** - to support coordination and collaboration, the IPE can be developed before a student leaves school to assure no break in service. This also allows the rapid, efficient, and appropriate determination of eligibility before exiting school.
5. **Funding** - the Act requires the Department of Rehabilitation and Department of Education to develop agreements that include clarification of funding, i.e. who pays for what?
6. **Section 504: Anti-Discrimination** - the Act contains provisions to safeguard the rights of people with disabilities. It gives them protection against discrimination in all programs receiving federal money as well as protection from discrimination by federal agencies or contractors.

### SECTION 504 OF THE REHABILITATION ACT: AN ANTI-DISCRIMINATION LAW

The law states that, "No qualified individual with disabilities based upon their disability status, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

A person has a disability within the definition of Section 504 if he or she:

- has a mental or physical impairment which substantially limits one or more of such person's major life activities;
- has a record of such impairments; or
- is regarded as having such an impairment.

Section 504 emphasizes the following areas related to transition-age students:

- employment,
- program accessibility, and
- requirements for post-secondary education.

**Section 504 protects individuals with disabilities from discrimination when participating in any program that receives federal funding.** More information about Section 504 and Vocational Rehabilitation is available from the Utah Parent Center or the Utah State Office of Rehabilitation. The School Guidelines for Educators and for Parents can be found on the USOE website. They have many ideas for how to use accommodations and implement the law. A parent guide to section 504 can be found online by visiting the Utah State Office of Education's or the Utah Parent Center's websites.

### AMERICANS WITH DISABILITIES ACT (ADA)

The Americans with Disabilities Act (ADA), Public Law 101-336, is a federal law signed by President Bush in 1990. Its purpose is to provide clear and enforceable standards addressing discrimination against individuals with disabilities and to help them join the mainstream of American life. The ADA prohibits discrimination against people with disabilities in:

- employment,

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- transportation,
- public accommodations, and
- communications and activities of state and local government, including colleges and universities

The ADA requires educational institutions to make programs and facilities accessible to students with a variety of disabilities. In addition, schools cannot have discriminatory policies and practices. The ADA also requires employers, employment agencies, and labor organizations to provide non-discriminatory application procedures, qualification standards, and selection criteria, and reasonable accommodations for limitations of a qualified applicant or employee unless to do so would cause the business undue hardship. Examples of accommodations are:



- modifying training materials (large print, Braille, audio cassette, etc.),
- modifying work schedules, such as allowing a person to reduce work hours, or lengthen the work day to include rest periods, and
- providing auxiliary aids and services such as: interpreters, assistive listening systems, readers, materials in Braille, and speech synthesizers.

The ADA requires that students be educated about their legal rights and that employers be aware of the requirements of the law.

### OTHER LEGISLATIVE SUPPORTS FOR TRANSITION

Other pieces of legislation that help individuals in the transition from school to adult life are:

- **The Carl D. Perkins Vocational and Technical Education Act of 1998:** This act (Public Law 101-392) is a federal law designed to develop the academics of vocational and technical skills of secondary and post-secondary students who elect to enroll in vocational and technical education (formerly applied technology) programs. This law provides services and assistance to students from special populations.
- **Fair Labor Standards Act (FLSA):** This act allows the Department of Labor to monitor child labor laws, minimum wages, overtime pay, and sub-minimum wage certification. The FLSA defines situations pertaining to school vocational programs in which students with disabilities may be considered “trainees” rather than “employees” while participating in community-based vocational instruction.
- **School-to-Work Opportunities Act:** This law promotes school and business partnerships to facilitate transition and develop a highly skilled workforce and includes students with disabilities, but provides noncategorical protection. It also calls for the involvement of disability-related organizations and service providers. It contains a vision of opportunities available to all students. A combination of federal and state implementation grants were funded to coordinate with the business community to provide an integration of school-based and work-based learning.
- **Ticket to Work and Work Incentives Improvement Act of 1999:** This act was enacted on December 17, 1999. It increases beneficiary choice in obtaining rehabilitation and vocational services, removes barriers that require people with disabilities to choose between health care coverage and work, and assures that more Americans with disabilities have the opportunity to participate in the workforce and lessen their dependence on public benefits.

*This content is taken from the Utah Parent Center handbook:  
From NO Where to KNOW Where: A Parent Handbook for the Transition to Adult Life.*