## A Comparison of Dispute Resolution Options Available Under Various Federal Laws Protecting Education Rights of Children with Disabilities

The Individuals with Disabilities Education Act (IDEA) provides children with disabilities and their parents certain procedural safeguards and rights. These children and their parents are also entitled to protections under other two civil rights laws that prohibit discrimination on the basis of disability—Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (Title II). Section 504 prohibits disability discrimination by recipients of Federal financial assistance, such as State educational agencies (SEAs) and local educational agencies (LEAs). Title II prohibits discrimination by public entities, including SEAs and LEAs, regardless of whether they receive Federal financial assistance.

The Family Educational Rights and Privacy Act (FERPA) is another Federal law that provides parents of children with disabilities certain rights related to their children's education. In fact, FERPA protects the privacy of education records of all students. These protections include the right of parents to inspect and review their children's education records, the right to seek to have their children's education records amended, the right to have some control over the disclosure of personally identifiable information from their children's education records, and the right to file a written complaint with the U.S. Department of Education (USDOE) regarding an alleged violation of FERPA. Rights under FERPA transfer to the student when they reach 18 years of age or begin attending a postsecondary institution. FERPA refers to such students as "eligible students."

These four Federal laws overlap in some respects, and public early intervention and educational programs must meet the relevant requirements of all four laws. However, meeting the requirements of one law does not automatically satisfy the other laws' requirements. In its May 17, 2024, Report to Congress, the Congressional Research Service noted the following as "key takeaways" when examining the rights of students with disabilities under the IDEA, Section 504, and Title II of the ADA:

- The IDEA is a grant program that funds services for children with disabilities and entitles them to early intervention services, and a free, appropriate, public education (FAPE).
- Section 504 and the ADA are general nondiscrimination laws protecting people from disability-based discrimination and requiring reasonable accommodations. Section 504 and the ADA are usually interpreted congruently.
- The IDEA applies to all children with disabilities, in early invention and public preschool (P)–12 schools. Section 504 applies to entities that take federal funding (including federal student aid), which includes all public schools (P–12 and postsecondary), many private schools (including most private postsecondary schools) and Part C lead agencies. The ADA applies to all public agencies, including public schools (Title II) and all nonparochial private schools (P–12 and postsecondary) (Title III).<sup>2</sup>

	Guide to Abbreviations Used in This Document							
AD	ADA Americans with Disabilities Act IDEA Individuals with Disabilities Education Act OSEP Office of Special Education Programs							
DC	Ol	Department of Justice	LA	Lead Agency (Part C)	SEA	State Educational Agency (Part B)		
FA	PE	Free Appropriate Public Education	LEA	Local Educational Agency	SPPO	Student Privacy Policy Office		
FE	RPA	Family Educational Rights Privacy Act	OCR	Office for Civil Rights	USDOE	U.S. Department of Education		

This guide is not intended to interpret, modify, or replace any IDEA, Section 504, Title II of ADA, or FERPA laws and regulations or State regulations associated with these laws and regulations. You are encouraged to contact your <u>State educational agency</u>, <u>State lead agency</u>, <u>or Parent Center</u> for more information.

<sup>&</sup>lt;sup>1</sup> Disability Rights Laws in Public Primary and Secondary Education: How Do They Relate? Fact Sheet, issued by ADA National Network (2018).

<sup>&</sup>lt;sup>2</sup> The Rights of Students with Disabilities Under the IDEA, Section 504, and the ADA, issued by the Congressional Research Service (May 17, 2024).

Federal Laws >>	Individuals with Disabilities Education Act (IDEA)	Section 504 of the Rehabilitation Act of 1973	Title II of the Americans with Disabilities  Act	Family Educational Rights and Privacy Act (FERPA)
PURPOSE	IDEA is a law that makes available early intervention services and a free appropriate public education (FAPE) to eligible children with disabilities and ensures special education and related services to those children throughout the nation. Infants and toddlers, birth through age 2, with disabilities and their families receive early intervention services under IDEA Part C. Children and youth ages 3 through 21 with disabilities receive special education and related services under IDEA Part B.  The IDEA authorizes formula grants to states to support special education and related services and early intervention services. The IDEA also provides for discretionary grants to SEAs, institutions of higher education, and other nonprofit organizations to support research, demonstrations, technical assistance and dissemination, technology development, personnel preparation and development, and parent-training and -information centers.	Section 504 is a Federal law that protects the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (USDOE). Section 504 is designed to guarantee equal educational opportunity for students with disabilities, including the right to FAPE <sup>3</sup> . In addition, Section 504 provides protections from discrimination in Part C programs. Section 504 is an antidiscrimination law and does not provide any type of funding.	Title II of the ADA prohibits discrimination on the basis of disability by public entities, including LAs, SEAs and LEAs, in employment, public services, and accommodations, regardless of receipt of Federal financial assistance. The ADA is intended to assure that individuals with disabilities have access to the same public services as individuals without disabilities. Title II of the ADA is an antidiscrimination law and does not provide any type of funding.  The provision of FAPE requirements in the Section 504 regulations are incorporated in the general nondiscrimination provisions of the Title II regulation. In general, the nondiscrimination standards in Section 504 and Title II are the same, and in general, actions that violate Section 504 also violate Title II. However, where Title II requirements go beyond Section 504 requirements, State and local government entities must also comply with the Title II requirements.	FERPA is a Federal law protecting the privacy of student education records and gives parents certain rights with respect to their children's education records. Once a student reaches 18 years of age or begins attending a postsecondary institution, they become an "eligible student," and all of the parent's rights under FERPA transfer to the student.  FERPA provides the right of the parent to inspect and review their child's education record, the right to seek to have their child's education record amended, the right to have some control over the disclosure of personally identifiable information from their child's education record, and the right to file a written complaint with the USDOE regarding an alleged violation of FERPA.  The law applies to all schools receiving funds under an applicable program of the USDOE. FERPA does not provide any type of funding.
LEGAL AUTHORITY	20 U.S.C. § 1400, et. seq Federal Regulations: 34 C.F.R. Part 300 (Part B) and Part 303 (Part C)	29 U.S.C. § 794  Federal Regulations: 34 C.F.R. Part 104	42 U.S.C. §§ 12131–12165  Federal Regulations: 28 C.F.R. Part 35	20 U.S.C. § 1232g Federal Regulations: 34 C.F.R. Part 99

<sup>&</sup>lt;sup>3</sup> Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . 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 . . . ."

<sup>&</sup>lt;sup>4</sup> The ADA provides: "... no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

<sup>&</sup>lt;sup>5,5</sup> Frequently Asked Questions on Disability Discrimination, U.S. Department of Education, Office for Civil Rights.

Federal Laws >>	Individuals with Disabilities Education Act (IDEA)	Section 504 of the Rehabilitation Act of 1973	Title II of the Americans with Disabilities  Act	Family Educational Rights and Privacy Act (FERPA)
STATE AND LOCAL RESPONSIBILITIES FOR OVERSIGHT AND ENFORCEMENT	Each SEA is responsible for administering IDEA Part B within the State, including distributing IDEA funds for the provision of special education programs.  Each State Lead Agency is responsible for administering IDEA Part C early intervention services.	A recipient of Federal funds from the USDOE that employs fifteen or more persons (e.g., LEA) must designate at least one employee to coordinate its efforts to comply with and carry out their responsibilities under Section 504. The recipient must adopt grievance procedures that incorporate due process standards and provide for prompt and equitable resolution of complaints.	A public entity that employs 50 or more persons must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited by Part 35 (Nondiscrimination on the Basis of Disability in State and Local Government Services).	FERPA and its implementing regulations do not specifically address State and local responsibilities for oversight and enforcement.
FEDERAL RESPONSIBILITIES FOR OVERSIGHT AND ENFORCEMENT	The Office of Special Education Programs (OSEP) in the USDOE administers the IDEA. OSEP is responsible for monitoring State implementation of IDEA Part B and Part C.  Contact information for OSEP is available <a href="here">here</a> .	The Office for Civil Rights (OCR) in the USDOE enforces Section 504 in public elementary and secondary schools.  Contact information for OCR's enforcement of Section 504 is available <a href="here">here</a> .	The Office for Civil Rights (OCR) in the USDOE shares responsibility for enforcement of Title II of the ADA in education-related matters with the U.S. Dept. of Justice (DOJ). DOJ is responsible for interpreting and providing technical assistance about the requirements of Title II.  Contact information for OCR's enforcement of Title II requirements is available <a href="here">here</a> .	The Student Privacy Policy Office (SPPO) in the USDOE provides oversight and coordination to ensure compliance and enforce Federal privacy laws and regulations. SPPO's enforcement role includes investigating complaints from parents and eligible students and other alleged violations of FERPA, providing intermediation assistance to complainants, and providing technical assistance to parents and students who believe their rights under FERPA may have been violated.  Contact information for SPPO is available <a href="here">here</a> .
ISSUES THAT CAN BE ADDRESSED THROUGH THE LAW'S DISPUTE RESOLUTION PROCEDURES	State complaints: Allegations that a public agency has violated a requirement of Part B or Part C of the IDEA or its implementing regulations.  Mediation: Any matter arising under Part B or Part C of the IDEA and its implementing regulations, regardless of whether a due process complaint to request a due process hearing has been filed.  Due Process: For Part B, any matters described in 34 C.F.R. § 300.503(a)(1) and (2) (relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child). For Part C, any matters described in 34 C.F.R. § 303.421(a) (relating to the identification, evaluation,	Local/State Levels  Complaints: Allegations that a recipient of Federal funds has violated a requirement of Part 104 of Section 504.  Due Process: Matters relating to the identification, evaluation, or placement of a student.  Regional/Federal Level  Complaints: Allegations of discrimination based on disability, race, color, national origin, or ancestry, sex or gender, or age. Among its responsibilities, OCR also has the authority to	Allegations that a public entity discriminated against an individual with disabilities in State and local government services, programs, and activities (including public schools) regardless of whether they receive Federal financial assistance.	Local Level Hearing: Limited to disputes related to the content of the student's education record on the grounds that the information contained in student's education record is inaccurate, misleading, or in violation of the student's privacy rights.  Federal Level Complaint: May be filed to investigate an alleged violation of their rights under FERPA including: failure to provide the parent or eligible student access to education records within required timelines; failure to consider the parent's or eligible student's requests to amend or correct records the

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(CONTINUED FROM ABOVE)	or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.	investigate complaints claiming that a recipient retaliated (1) for the purpose of interfering with any right or privilege protected by the laws enforced by OCR; (2) retaliated because someone made a complaint, testified, assisted, or participated in any manner in an OCR matter.  NOTE: There is no requirement to file a local-level complaint before filing a complaint with OCR.	(continued)	parent or eligible student believes are inaccurate, misleading, or in violation of their privacy rights; and improper disclosure of the student's education record to a third party.  NOTE: The confidentiality provisions in IDEA Part B and C overlap with FERPA in several areas. Federal guidance indicates that when there is a question regarding the confidentiality of a child or student with a disability the IDEA requirement should be analyzed first, and then the FERPA rules should be considered, as applicable.
DISPUTE RESOLUTION OPTIONS	<ul> <li>Any individual, including one from another State, may file a written State complaint with the SEA if they believe a public agency has violated a requirement of IDEA Part B or the Part B regulations. Likewise, any individual, including one from another State, may file a written State complaint with the State Lead Agency (Part C) if they believe the Lead agency, public agency, or EIS provider has violated a requirement of IDEA Part C or the Part C regulations.</li> <li>States must make mediation available to allow parties to disputes involving any Part B or Part C matter to resolve their disputes. Mediation must be voluntary and provided at no cost to the parties.</li> <li>In Part B, due process hearings are conducted by the LEA (two-tier system) or the SEA (one-tier system). The determination of which entity conducts due process hearings is based on State statute, State regulation, or a written policy of the SEA. Under Part B, the LEA must convene a resolution meeting to discuss the parent's due process complaint so that the LEA has the</li> </ul>	<ul> <li>Some but not all States offer alternative forms of dispute resolution, such as mediation.</li> <li>LEAs must provide the opportunity for an impartial hearing for parents who disagree with the identification, evaluation, or placement of a student. Parents must have an opportunity to participate in the hearing process and be represented by counsel.</li> <li>Regional/Federal</li> <li>Written complaint filed with the appropriate regional OCR office.</li> <li>Litigation</li> <li>Individuals may file a private lawsuit in Federal court.</li> <li>Note: In March 2023, the U.S. Supreme Court ruled in <i>Perez v. Sturgis Public Schools</i>, that parents are not required to exhaust administrative procedures under the IDEA before seeking relief in the form of</li> </ul>	<ul> <li>The public entity must make available to all interested individuals the name, office address, and telephone number of the designated employee or employees. The public entity must adopt and publish grievance procedures that provide for prompt and equitable resolution of complaints that allege actions prohibited by Part 35.</li> <li>The ADA does not delineate specific due process procedures. However, the statute states that, "where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the ADA and the Title II implementing regulations. In fact, enforcement agencies may encourage informal mediation and efforts to bring the public entity into voluntary compliance.</li> </ul>	<ul> <li>Limited to disputes related to the content of the student's education record (34 C.F.R. § 99.21) on the grounds that the information contained in a student's education record is inaccurate, misleading, or in violation of the student's privacy rights.</li> <li>Federal Level         The parent or eligible student may file a complaint with the USDOE's SPPO to resolve disputes regarding:         Failure to provide access to education records within required timelines.     </li> <li>Failure to consider requests to amend or correct records the parent or eligible student believes are inaccurate, misleading, or in violation of their privacy rights.</li> <li>Improper disclosure of the student's education record to a third party.</li> <li>NOTE: FERPA does not specifically provide the right to file a private lawsuit regarding alleged</li> </ul>

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(CONTINUED FROM ABOVE)	<ul> <li>opportunity to resolve the dispute unless the parent and LEA agree in writing to waive the meeting or to use IDEA's mediation process instead.</li> <li>In Part C, the Lead Agency is responsible for conducting due process hearings. Each State makes a determination of whether it will follow IDEA's Part C due process procedures or the due process procedures under IDEA Part B, which provides for a resolution meeting to attempt to resolve the dispute as described above.</li> </ul>	compensatory damages under Title II of the ADA or Section 504.	Federal Level Individuals may file a complaint with the relevant Federal agency.  Litigation Individuals may file a private lawsuit in Federal court. It is not necessary to file a complaint with the DOJ or any other Federal agency, or to receive a "right-to-sue" letter, before going to court.  Note: In March 2023, the U.S. Supreme Court ruled in <i>Perez v. Sturgis Public Schools</i> , that parents are not required to exhaust administrative procedures under the IDEA before seeking relief in the form of compensatory damages under Title II of the ADA or Section 504.	violations. In <i>Gonzaga Univ. vs. Doe, (2002)</i> the U.S. Supreme Court held that eligible students and parents may not sue for damages under 42 U.S.C. § 1983 to enforce FERPA provisions.
WHO CAN INITIATE	State Complaints: Any individual or organization, including one from another State.  Mediation (Part B): A parent or school district may request mediation. An SEA may also recommend this as an alternative to a more formal process.  Mediation (Part C): A family member, early intervention services provider, lead agency and/or public agency may request mediation, but participation must be voluntary for all parties.  Due Process (Part B): A parent or LEA may file a due process complaint/hearing request.  Due Process (Part C using Part C due process procedures): A parent may file a due complaint/hearing request.  Due Process (Part C using Part B due process procedures): A parent, an early intervention service	Local/State Level: Subject to the grievance procedures adopted by the recipient.  Local Level Impartial Hearing: A parent of an eligible student.  Regional/Federal Complaint with OCR: Anyone may file a complaint. The person or organization filing the complaint need not be a victim of the alleged discrimination but may complain on behalf of another person or group. A complainant filing on behalf of or pertaining to another person(s) is responsible for securing any necessary written consent from that individual, including when a parent files for a student over the age of 18.	Local/State Level: Subject to the grievance procedures adopted by the recipient.  Regional Federal Complaint with OCR: Anyone may file a complaint. The person or organization filing the complaint need not be a victim of the alleged discrimination but may complain on behalf of another person or group. A complainant filing on behalf of or pertaining to another person(s) is responsible for securing any necessary written consent from that individual, including when a parent files for a student over the age of 18.	The complaint must be filed by a parent or eligible student who has FERPA rights over the education records in question.  An attorney or advocate may file a complaint on behalf of a parent or an eligible student.  SPPO will dismiss anonymous complaints and complaints filed by a party other than the parent or eligible student who maintains FERPA rights over the education records that are the subject of the complaint, or his or her attorney or advocate.

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(CONTINUED FROM ABOVE)	provider, or the State's Lead Agency may file a due process complaint/hearing request.	(Left Blank)	(Left Blank)	(Left Blank)
TIME LIMITS	State Complaints: The written complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received.  Mediation: None specified.  Due Process Complaints: Under the IDEA Part B procedures, due process complaints must be filed within 2 years of the date when a party knew or should have known of the problem.  The written decision must be issued within 45 calendar days from the end of the resolution period, unless the hearing officer grants a specific extension of the timeline at the request of a party.  The IDEA Part C procedures do not identify a time limit for filing due process complaints. However, it is important to file in a timely manner to make sure concerns about the child's services are addressed promptly. The hearing must be completed, and the hearing decision issued, within 30 calendar days from the date the due process complaint was received. IDEA permits a hearing officer to grant specific extensions of the 30-day timeline at the request of	Local/State: Check local and State procedures for any applicable time limit for resolving concerns at local or State levels.  Complaint with OCR: Generally, a complaint must be filed with OCR within 180 calendar days of the date of the alleged discrimination. If the complaint is not filed on time, the complainant should provide the reason for the delay and request a waiver of this filing requirement. OCR will decide whether to grant the waiver. Source: USDOE OCR Complaint Processing Procedures	Local/State: Check local and State procedures for any applicable time limit for resolving concerns at local or State levels.  Complaint with OCR: Generally, a complaint must be filed with OCR within 180 calendar days of the date of the alleged discrimination. <sup>2</sup> If the complaint is not filed on time, the complainant should provide the reason for the delay and request a waiver of this filing requirement. OCR will decide whether to grant the waiver.	Complaint with SPPO: Within 180 days of the alleged violation or within 180 days of when the complainant knew or reasonably should have known about the violation. <sup>6</sup>
CONSIDERATIONS	either party to the hearing.  IDEA's State complaint procedures are available at no cost to the complainant. Mediation must be made available at no cost to the parties. Legal representation is not required to use these procedures. Mediation is voluntary and a party may not be required to participate.	Shorter timeline for filing a complaint with OCR (180 days) than under IDEA (within 1 year of the alleged violation).  Provides an opportunity for the Federal agency to make the determination as to	Shorter timeline for filing a complaint (180 days) than under IDEA (within 1 year of the alleged violation).  Provides an opportunity for the Federal agency to make the determination as to whether a	Shorter timeline for filing a complaint (180 days) than under IDEA (within 1 year of the alleged violation).  IDEA provides an opportunity for the complainant to propose a solution or remedy to the alleged noncompliance rather than

<sup>&</sup>lt;sup>6</sup> U.S. Department of Education Student Privacy Policy Office: File a Complaint

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(CONTINUED FROM ABOVE)	Generally, individuals filing a due process complaint will engage the services of an attorney due to the complexity of the process. The hearing, hearing officer, facilities, and decision must be at no cost to the parents. Each party pays its own costs, which may include attorney's fees and witness fees.	whether a violation of Section 504 occurred, rather than a local or State agency.  Complaints may be filed with OCR under Section 504 at no cost to the complainant.  Generally, individuals pursuing a private lawsuit will incur attorney costs and filing fees.	violation of Title II of the ADA occurred, rather than a local or State agency.  Complaints may be filed with OCR under Title II at no cost to the complainant. Generally, individuals pursuing a private lawsuit will incur attorney costs and filing fees.	SPPO's primary focus of correcting systemic issues.  Provides an opportunity for the Federal agency to make the determination as to whether a violation of FERPA occurred, rather than a local or State agency  Complaints may be filed under FERPA at no cost to the complainant.
FOR MORE INFORMATION, RESOURCES, AND TECHNICAL ASSISTANCE	IDEA Dispute Resolution Guides and Companion Videos published by CADRE  IDEA Early Intervention Family Guides and Companion Videos published by CADRE  Quick Guide to Early Intervention Dispute Resolution Processes for Families of Infants & Toddlers (Birth through Age 2) published by CADRE  Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth (Ages 3-21) published by CADRE  OSEP Memo 13-08 and Questions and Answers on IDEA Part B Dispute Resolution Procedures issued by the U.S. Department of Education (Jul. 23, 2013)	Parent and Educator Guide to Section 504 in Public Elementary and Secondary Schools published by the U.S. Department of Education (2016)  Civil Rights Laws last reviewed by the U.S. Department of Education, Jan. 22, 2025  Disability Discrimination – Information and Resources on Protecting Students with Disabilities from Discrimination under Section 504 and Title II, last reviewed by the U.S. Department of Education, Jan. 3, 2025  Notice of Complainant and Interviewee Rights and Protections last reviewed by the U.S. Department of Education, Jan.14, 2025	ADA.gov web site administered by DOJ, Civil Rights Division  Civil Rights Laws last reviewed by the U.S. Department of Education, Jan. 22, 2025  Disability Discrimination – Information and Resources on Protecting Students with Disabilities from Discrimination under Section 504 and Title II, last reviewed by the U.S. Department of Education, Jan. 3, 2025  Notice of Complainant and Interviewee Rights and Protections last reviewed by the U.S. Department of Education, Jan.14, 2025	IDEA and FERPA Crosswalk published by the U.S. Department of Education (Aug. 24, 2022)  A Parent's Guide to the Family Educational Rights and Privacy Act issued by the U.S. Department of Education (July 9, 2021)  An Eligible Student Guide to the Family Educational Rights and Privacy Act issued by the U.S. Department of Education (Mar. 8, 2023)  How to File a Complaint videos produced by the U.S. Department of Education  FERPA Complaint Form issued by the U.S. Department of Education  The U.S. Department of Education's Student Privacy Policy Office web site