



“NEARLY 1 IN 5 STUDENTS HAVE A LEARNING DISABILITY AT SOME POINT IN THEIR LIFE, AND THE NUMBER WHO QUALIFY FOR SPECIAL EDUCATION SERVICES HAS GROWN RAPIDLY OVER THE PAST DECADE.”

A FAMILY’S JOURNEY TO GETTING THE SUPPORT THEIR SON NEEDED

BY CHRIS ROE

When a parent sees signs that their child is struggling, it can be distressing, as it was for Jessica, who noticed that her young son was having challenges that other children his age didn’t seem to have.



“I have always been fascinated by behavior, and then was gifted a beautiful little boy who had some significant behavior challenges.”

Before having a formal diagnosis, Jessica¹ suspected her son had sensory issues, possibly Autism, and anxiety that could interfere with his ability to succeed in school. Like many parents, Jessica worried about her son's future.

Jessica is a special education teacher, which helped her navigate the complexities of obtaining the support her son needed. Like many parents, she found the process of obtaining that support to be stressful and complicated.

Given their concerns, she and her husband decided to homeschool their son. In Grade 2, they enrolled him in a private school that agreed to offer some accommodations to address his challenges. They decided to switch to public school in Grade 3, and successfully obtained a 504 Plan that included a range of accommodations he needed.

According to Jessica, “When we were moving into public school, I told the principal, ‘Here’s the child that I’m bringing you. Here’s the history and a list of accommodations we were using in private school last year.’ I brought her a very clear and compelling history that documented a disability with evidence-based accommodations. I knew how the system worked, and I knew what was needed.”

However, they encountered pushback from her son's school about his accommodations and decided on online homeschooling. Soon after, they realized he needed to be with his peers and decided to re-enroll in public school, where their son is currently attending middle school.

Their journey yielded some important lessons about the process of obtaining support, how to collaborate with their school, and how to advocate for their son.

GETTING YOUR CHILD THE SUPPORT THEY NEED

Getting answers about *why* a child is struggling can be scary for parents. Once a parent has more information about *what is happening*, their attention turns to figuring out how they can support their child in reaching their full potential.

Parents have the right to have their child evaluated by their local public school and, if it is determined that the child has a disability,

to obtain the necessary support. When families are informed and collaboratively partner with their school to secure needed support and monitor the progress, it can be a game changer for students.

Nearly 1 in 5 students are identified as having a learning disability at some point in their life. According to the most recent data from the US Department of Education, the number of students who qualify for special education services or accommodations has grown rapidly over the past decade, even after a drop-off in numbers during COVID.²

There are two main federal laws that ensure students can access a free and appropriate public education (FAPE): the Individuals with Disabilities in Education Act (IDEA) and the Rehabilitation Act of 1973 (Section 504). While there is some overlap between these two major laws, IDEA focuses on the educational needs for children from birth to 21 years of age with documented disabilities. Section 504 of the Rehabilitation Act is a civil rights law that focuses on individuals with disabilities who may need support to equitably participate in major life activities, including schooling. Parents may be familiar with the Americans with Disabilities Act (ADA), which provides individuals with disabilities protections from discrimination, but is not regarded as an on-ramp to obtain needed services.

If a parent suspects their child is struggling academically or having difficulty participating in the classroom due to a physical, behavioral or social challenge, they should request that their school conduct an evaluation to determine if their child qualifies for services or other supports beyond those offered by the school to all students. While this is a fundamental right for parents at public school, private schools are not obligated to conduct evaluations, nor provide any needed services. In some cases like Jessica's, private schools may decide to offer services to students with disabilities.

Evaluations can range from a comprehensive evaluation across a range of cognitive and physical domains, to more narrowly tailored ones that may evaluate only one or two suspected areas of disability. It is best to ask for a more comprehensive evaluation to identify any disability that may impact access to education.

STEPS TO SUCCESS: If a parent suspects their child is struggling academically, they should request that their school conduct an evaluation to determine if their child qualifies for services or other supports.

1. Jessica is a pseudonym used to protect her and her son's identity.

2. National Center for Education Statistics. (2024). Students With Disabilities. Condition of Education. U.S. Department of Education, Institute of Education Sciences. Retrieved Oct. 25, 2024, from <https://nces.ed.gov/programs/coe/indicator/cgg>.

To activate the students' legal rights and initiate the process, it is imperative that parents *request in writing* that the school conduct an evaluation that addresses their suspected areas of concern. Otherwise, schools may delay taking action. Some schools may want to wait to see how interventions such as Response to Intervention (RTI) or Multi-Tiered Support Services (MTSS) play out before conducting an evaluation. Parents should understand that even if the school tells them they need to wait to see the results of RTI or MTSS before they conduct an evaluation, schools are obligated under law to begin the process if the parent requests one.

Once the school responds to your request, it may take several weeks to initiate and complete the evaluation. Even though the parent or guardian's right to an evaluation is covered under federal IDEA and Section 504 laws, states have latitude regarding evaluation procedures (i.e., how long schools have to complete the evaluation), so you need to research your state's educational code. Parents should track the progress of their child's evaluation and not be afraid to ask questions of the school's evaluation team or other independent experts, in order to understand the process (i.e., what will be evaluated, by whom, and how) and the results. Parent observations and data should be included as part of the evaluation.

When the evaluation is complete, the school should schedule a meeting with the parents to review the results. At this meeting, the team identifies whether your child qualifies for necessary services and supports under either IDEA, requiring the development of an Individualized Education Program (IEP), or under Section 504 of the Rehabilitation Act (e.g., a 504 Plan).

What happens if parents disagree with the evaluation results or the school's decision not to provide services? Under IDEA, parents have the right to request an Independent Educational Evaluation (IEE) from another expert, at the school's expense. If the school agrees, the findings must be considered. However, they are not required to agree with them. If the parent and school still can't agree, parents can appeal the results through the formal dispute resolution process outlined in IDEA and Section 504.

DIFFERENCE BETWEEN IEPs AND 504 PLANS

One major difference between an IEP and a 504 Plan relates to how a student qualifies for services. There is a higher bar to qualify for an IEP than a 504 plan. To qualify for an IEP, a student must meet detailed eligibility criteria spelled out by the state under one of 13 federally recognized conditions.³ The team will also need to demonstrate that the disability is interfering with the student's ability to progress in school.

If your child doesn't meet these criteria, but still needs additional help, then the school may offer a 504 Plan. Some families may choose to opt for a 504 Plan despite eligibility for an IEP. If your student has a 504 Plan, they are not considered to be a special education student.

A 504 Plan generally includes specific accommodations that will allow the student to access their education, such as: extra time for classwork or the use of aids or special technology. In most cases, 504 Plans often do not include services like speech or occupational therapy, or modifications to the curriculum.

While both IEPs and 504 plans are legally binding agreements between the school and parents or legal guardian, an IEP includes much greater detail about a stu-

dent's challenges and current performance. An IEP will spell out goals for improvement, specialized instruction needed, the precise types and amount of specialized support services a student will receive, and where and how they will receive services.

It will specify whether the student will be placed in a general education classroom with their peers, in a specially designed classroom that serves only special education students, or some combination of these settings. School districts are required to provide a continuum of learning environments, depending on the level of support the child needs.

It is important to remember that IDEA requires a student be placed in their Least Restrictive Environment (LRE), meaning a classroom setting that allows integration with peers who do not have disabilities, to the greatest extent possible. If parents disagree with the school about the student's placement, they have the right to appeal the decision. IDEA includes robust mechanisms that spell out how teams can resolve disputes, including filing a formal complaint, going to mediation and seeking a due process hearing.

Another key difference is that IDEA requires that parents are equal, meaningful partners in their child's educational program, and participate fully in the process of developing their child's IEP.

504 plans are often developed by school personnel. Parents and guardians can be involved in their development, but schools are

3. The full list of federally recognized disabilities under IDEA includes Autism, Deaf or Hard of Hearing, Deaf-Blindness, Developmental Delay, Emotional Disturbance, Intellectual Disabilities, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment, Specific Learning Disability, Speech or Language Impairment, Traumatic Brain Injury and Visual Impairment

COMPARING IEPs AND 504 PLANS		
	504 Plans	Individualized Educational Plans (IEP)
What is the authorizing law?	Section 504 of The Rehabilitation Act of 1973	IDEA – Individuals with Disabilities Education Act
How does a child qualify?	Must have a diagnosed or suspected disability that affects access to general school curriculum	Must have a documented disability that requires specialized instruction and related services in order to learn in school
What does it offer?	Accommodations	Specialized instruction, services, and accommodations
Does it include goals and objectives?	Not required	Required
Is it legally binding?	Yes	Yes
Is it considered Special Education?	No	Yes

not required to take their input into consideration, nor to put the plan in writing. If there are disagreements, though, parents have rights and mechanisms to settle disputes through a hearing process that may include mediation. Like IDEA, mediation cannot be used to delay a hearing, if requested.

Both IEPs and 504 plans should be reviewed periodically, and updated to address any gaps or changes in the child's progress. With IEPs, the IEP team (including parents) must meet annually, to review and make any needed changes to the plan, but can meet more frequently, if needed. On the other hand, 504 regulations do not address how often 504 plans must be reviewed, but parents should not be afraid to request to meet for changes.

SUPPORTS THAT A STUDENT CAN GET IF THEY HAVE A DISABILITY

Services such as occupational therapy, physical therapy, speech therapy or counseling may be provided in a one-on-one setting or small group, by a licensed professional. If a student qualifies for specialized service, it will likely be through an IEP. Some 504 plans may include services.

Modifications are changes made to the school's general curriculum or instructional model that addresses the needs of a student due to their disability. If your student needs modifications to progress in their education, it likely means that he or she needs an IEP that includes changes in detail.

Accommodations are changes that can be made in the school setting that allow your student to access their education without requiring the school to make significant changes to the curriculum or instruction. Some common examples include: special seating, assistive technology,⁴ and extra time to complete classwork or tests.

4. Some examples of assistive technology tools and devices include speech-to-text, text-to-speech, timers, visual and graphic organizers, keyboards and touchscreens.

TIPS FOR PARENTS

- Develop a positive relationship with your child's teachers, support team and school leaders. Understand their roles and authority regarding special education.
- Communicate directly with your child's teachers and specialists if concerns arise. If necessary, ask to convene their academic and support team to problem-solve.
- Always put requests for evaluations, support, and your concerns in writing. Be as objective as possible.
- Be sure to collect your own data on your child's progress, and identify any new issues that arise, or changes you see in support needs.
- When things aren't working as you expect, ask for changes to your child's IEP or 504 plan.
- If you are unable to resolve issues at the classroom or team level, don't be afraid to enlist outside support, or go up the chain of command to resolve the issue, including utilizing dispute resolution options.



OUTSIDE OPINION: "Ask questions if you are not sure what to do, and seek out the assistance of professionals, including experts on disabilities and education advocates."

Both IEPs and 504 plans may include accommodations that a school will provide.

For Jessica's son, they were able to get a number of accommodations as part of their 504 Plan, including: weekly check-ins, shortened assignments, alternative assignments, assessments to increase engagement, frequent movement breaks, check-ins with a learning coach, and preferential seating. These accommodations allowed him to be educated alongside his peers in the general education classroom.

Students with disabilities may be able to obtain support from private schools, but private schools are not obligated to provide support to students with disabilities, unless they receive federal funding.

"When we got to middle school, we saw things change in terms of his needs," Jessica recalled. She said the school pushed back when it came to implementing his 504 Plan. She noted, "It's so stressful on the parent side of navigating and managing the team." She decided to seek help. "I found an advocate to work with me, and built a solid 504 team. I gathered the data from the past year to present at the meeting, so it was harder for them to push back."

SUMMARY

Jessica and her family's journey led to valuable insights to support her son and successfully work with the school. Her advice to other parents is to ask questions if you are not sure what to do, and to seek out the assistance of professionals, including experts on disabilities and education advocates. Her experiences demonstrate that a team with a strong student focus, two-way communication, and collaboration can overcome challenges and make all the difference for a student with disabilities. •

ABOUT THE AUTHOR:

Chris Roe lives in New Orleans, LA where he and his husband are raising two boys with neurological and learning disabilities. He serves as Director of State Policy for the Council of Parent Attorneys and Advocates, where he helps members advocate for policies that support students with disabilities at the state and local levels. He is currently working on a project to assist parents in understanding 504 Plans. Roe has served as co-chair of New Orleans Public Schools' Special Education Advisory Council and co-founded Sunshine Parents, a group that educates and empowers families of students with disabilities. For more information about COPAA's project regarding 504 Plans, see Section 504 of Rehabilitation Act of 1973 - Council of Parent Attorneys and Advocates, Inc.