

# STANDARDS IN ACTION

## SERVICES FOR CHILDREN WHO DO NOT QUALIFY FOR IDEA



Head Start and Early Head Start programs need to serve children with disabilities who qualify for services under the Individuals with Disabilities Education Act (IDEA). However, programs also need to support children who may have delays in development or be at risk for disabilities, but don't qualify for services under IDEA. This set of briefs is about the responsibilities Head Start and Early Head Start programs have related to providing additional services for children who are not eligible under IDEA, and how to support programs in doing so. It shares different options for plans that support children in classrooms, during group socializations, and during home visits. The last page of the document highlights what IDEA is and how eligibility is determined. This fact sheet describes laws and approaches to consider when deciding how to provide additional support to children who need it. It is a companion piece to *Services for Children Who Do Not Qualify for IDEA*, which describes a disability services coordinator's experience determining how to provide additional services to a child who is not eligible for IDEA services.

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### What is IDEA?

- Children who qualify for services under the Individuals with Disabilities Education Act (IDEA) are eligible to receive those services as indicated in an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP).
- Children age 3 and older are covered under [Part B of IDEA](#). A child is deemed eligible if he or she requires special education and related services. Under Part B, children with a disability are provided with a Free Appropriate Public Education (FAPE) that is tailored to their individual needs. Local educational agencies must offer special education and related services to children who qualify.
- Children under age 3 are covered under [Part C of IDEA](#), which provides guidelines for determining eligibility for early intervention services. Part C only provides early intervention services and does not guarantee a FAPE, but does indicate that the services must be provided in the child's "natural environment," that is, the place where the child spends the majority of his or her time.

## WHAT REGULATIONS AND LAWS DETERMINE SUPPORTS FOR CHILDREN WHO DO NOT QUALIFY FOR SERVICES UNDER IDEA?

### HEAD START PERFORMANCE STANDARDS

The Head Start Program Performance Standards require that the “individualized needs of children with disabilities, including but not limited to those eligible for services under IDEA, are being met and all children have access to and can fully participate in the full range of activities and services. Programs must provide any necessary modifications to the environment, multiple and varied formats for instruction, and individualized accommodations and supports as necessary to support the full participation of children with disabilities. Programs must ensure all individuals with disabilities are protected from discrimination under and provided with all services and program modifications required by section 504 of the Rehabilitation Act (29 U.S.C. 794), the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and their implementing regulations.” [1302.61(a)]

In addition, programs must meet these responsibilities while a child is going through the process to determine IDEA eligibility. Programs must provide the child with all of the services and supports from Head Start or Early Head Start while the child is being evaluated and eligibility determined. They “must provide individualized services and supports, to the maximum extent possible, to meet the child’s needs. Such additional supports may be available through a child’s health insurance or it may be appropriate or required to provide the needed services and supports under section 504 of the Rehabilitation Act if the child satisfies the definition of disability in section 705(9)(b) of the Rehabilitation Act. When such supports are not available through alternate means, pending the evaluation results and eligibility determination, a program must individualize program services based on available information such as parent input and child observation and assessment data and may use program funds for these purposes.” [1302.61(b)]

### SECTION 504 OF THE REHABILITATION ACT OF 1973

Often called “Section 504” for short, this federal statute administered by the Office of Civil Rights prohibits discrimination based on disability. To be protected under Section 504, a child must have a physical or mental impairment that substantially limits one or more major life activities, have a record of such an impairment, or be regarded as having such an impairment.

Section 504 applies to students 3-22 years of age. Public schools and Head Start agencies, as well as all other programs directly or indirectly receiving federal dollars, must comply with the requirements of Section 504. Section 504 requires programs to provide preschool children with disabilities equal access to the program, with reasonable accommodations and modifications.

#### WHAT DO WE MEAN BY “A CHILD WITH A DISABILITY”?

**As part of making special education and related services available to children with disabilities in the public schools, IDEA defines the term “child with a disability.”** That definition includes specific disability terms, which are also defined by IDEA. The definition within the legislation states that a:

“Child with a disability means a child evaluated in accordance with §300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.”

(34 CFR §300.8)

## AMERICANS WITH DISABILITIES ACT (ADA)

ADA prohibits discrimination against individuals with physical or mental disabilities. The ADA uses the same definition of disability as Section 504. This includes children who have a physical or mental impairment that substantially limits one or more major life activities, have a record of such an impairment, or are regarded as having such an impairment. In the area of education, Section 504 focuses on requirements for public schools related to serving children with disabilities, and while ADA does not have the same specific requirements, ADA accommodation provisions apply to public as well as nonsectarian private schools.

The ADA applies to all settings—including public schools, community pre-k programs, and private child care and preschools. Programs operated by religious entities are exempt. The ADA states that “public programs are required to make reasonable modifications to program policies and practices to integrate children with disabilities, unless doing so would constitute a fundamental alteration.” Facilities should be accessible to people with disabilities. Existing facilities must be “readily achievable,” while new facilities and any updates to existing facilities must be fully accessible.



## HOW CAN PROGRAMS SUPPORT CHILDREN WHO DO NOT QUALIFY FOR SERVICES UNDER IDEA?

### SECTION 504 PLANS

When a child is determined eligible for additional services under Section 504, programs should develop a 504 plan to describe and document the modifications the child is entitled to receive under law. Although these accommodations are not considered “special education,” they may be necessary to help the child learn. While not legally required, a written plan helps programs document which accommodations they’ll use to support the child. Section 504 doesn’t require parents be a part of the team that decides whether to initiate a 504 plan or creates it. Nonetheless, because this team includes those who “are knowledgeable about the child,” parents should be included as an active member of the team so they can contribute any information that would be helpful to the Section 504 committee (observations and experience with child, evaluation results and other reports from doctors and other specialists, etc.). Parents should also be informed about their rights in this process.

Example: A child diagnosed with ADHD may be easily distracted and especially wiggly during circle time. One accommodation for a child in this situation might be seating her next to the teacher during circle time or using visuals to redirect her attention. In this situation, the teacher isn’t modifying instruction but supporting the child’s needs by seating her away from distractions. This would be documented in the child’s 504 plan, which would describe when and how it is implemented.

## CHILD ACTION PLANS

Sometimes, a child who isn't eligible for IDEA or Section 504 may need more support to be successful in the classroom. This often happens when a child doesn't meet the criteria for a disability diagnosis or when the child isn't evaluated to determine eligibility. Programs may create a written action plan to illustrate how they are ensuring the child can fully participate in the program. Such plans help document goals for the child and which strategies adults try with the child. The disability services coordinator, mental health consultant, or education staff take the lead in creating the plan. Like a Section 504 Plan, it's good to involve parents, given Head Start's emphasis on parents as a child's first teacher. Parents may work with staff, consultants, and other providers by sharing information about the child's needs, naming target goals, and discussing strategies to support the child.

Example: A child without a formal diagnosis struggles to control his emotions, and becomes upset easily. During these times he often stomps his feet and yells, which typically escalates to crying loudly for 5-10 minutes. A teacher might use a Child Action Plan to plan ways to teach him how to cope when he becomes frustrated (say to himself "That's okay, I can play with something else instead"). She also focuses on strategies to help him calm down (taking deep breaths). Introducing and implementing these strategies may be documented in a Child Action Plan.

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## HOW IS THIS PROCESS DIFFERENT WHEN A CHILD QUALIFIES FOR AN IEP OR IFSP UNDER IDEA?

- Children who qualify for services under IDEA are eligible to receive those services as indicated in an IEP or IFSP.
- Children age 3 and older are covered under [Part B of IDEA](#). A child is deemed eligible if he or she requires special education and related services. Under Part B, children with a disability are provided with a Free Appropriate Public Education (FAPE) that is tailored to their individual needs. Local educational agencies (LEA) must offer special education and related services to children who qualify.
- The IEP is a written plan and the mechanism used for describing and documenting the special education, related services, and supplementary aids and services an eligible child is entitled to receive under the law. A team of professionals (e.g., teachers, therapists) including representatives from the LEA and the child's parents work together to create the IEP. Among other things, it contains information about the child's levels of academic achievement and functional performance, measurable goals, and a statement of the services the program will provide the child in the least restrictive environment.



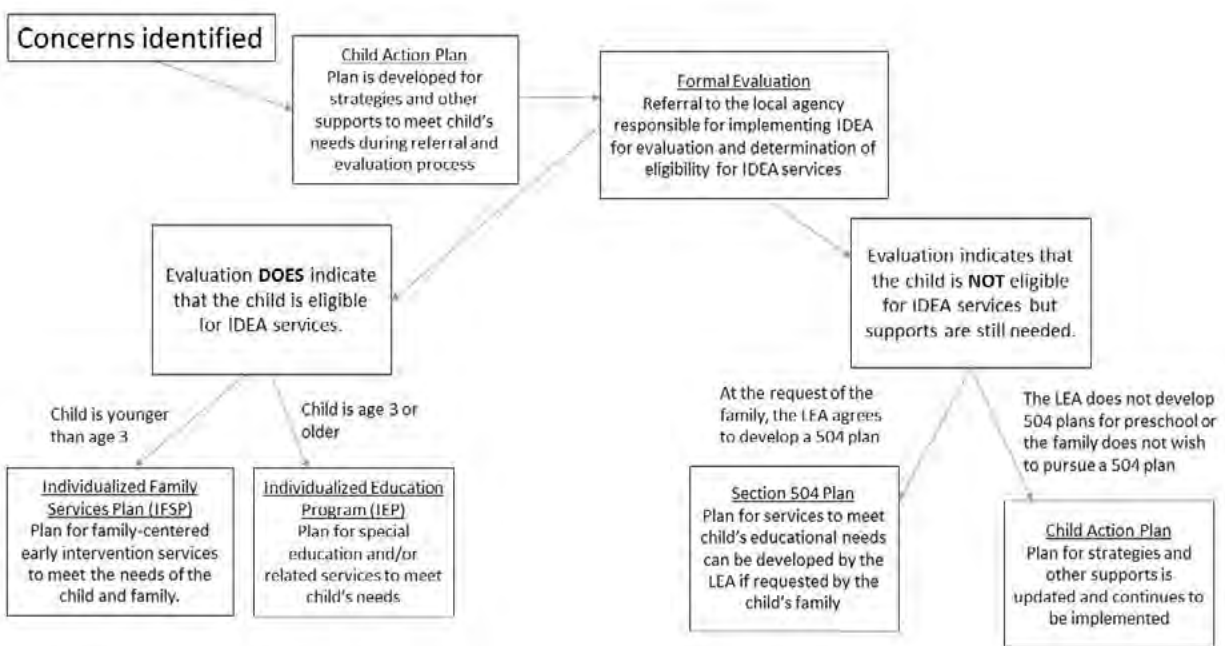


## SERVICES FOR CHILDREN WHO DO NOT QUALIFY FOR IDEA

- Children under age 3 are covered under [Part C of IDEA](#), which provides guidelines for determining eligibility for early intervention services. Part C only provides early intervention services and does not guarantee a FAPE but does indicate that the services must be provided in the child's "natural environment," that is, the place where the child spends the majority of his or her time. Part C eligibility is different in each state but includes children who have a developmental delay in the physical, cognitive, communication, social or emotional, and adaptive domains or has a physical or mental condition that often results in developmental delay. A state may also include children who are at risk of experiencing a substantial developmental delay if they don't get early intervention services.
- The IFSP is a written plan used to describe and document the early intervention services a child under 3 and his or her family receive. It's developed by a team of professionals who evaluated the child to determine his or her needs. The team includes the child's family members (by law), a service coordinator, and individuals who will provide early intervention services, as appropriate (e.g., therapists, teachers). Among other things, the IFSP includes information about the child's development in all areas, goals for the child and family, and services the child and family will receive to help them succeed.

### WHICH PLAN IS THE "RIGHT" PLAN?

Whether a child needs an IEP, IFSP, Section 504 Plan, or Child Action Plan depends on the specific child and related circumstances.



## SELECTED RESOURCES

- [Head Start Program Performance Standards](#)
- [Standards in Action: Interim Services for Children with Disabilities or Suspected Delays](#)
- [Questions and Answers \(Q&A\) on the Release of the New Head Start Program Performance Standards](#)
- [Supporting Children Who Do Not Qualify for the Individuals with Disabilities Education Act \(IDEA\)](#)
- [Differences between IDEA Part B and IDEA Part C](#)
- [States' and Territories' Definitions of/Criteria for IDEA Part C Eligibility](#)
- [Break It Down: Turning Goals into Everyday Teaching Opportunities](#)
- [Overview: Children with Disabilities](#)

## LAWS AND REGULATIONS

- [Head Start Program Performance Standards](#)
- [Individuals with Disabilities Education Act](#)
  - [Section 1401 Definitions](#)
  - [Subpart D -Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placement](#)
  - [Part B regulations](#)
  - [Part C regulations](#)
- ADA Information Line, 1-800-514-0301
- [Commonly Asked Questions About Child Care Centers and the ADA](#)
- [Frequently Asked Questions About Section 504 and the Education of Children with Disabilities](#)

